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Mr Tim Bryant  
Secretary  
Senate Standing Committee on Economics  
PO Box 6100  
Parliament House  
Canberra ACT 2600  
Australia

Our ref KPMG submission

Contact Anthony Seve

12 April 2013

Dear Mr Bryant,

**Tax Laws Amendment (Countering Tax Avoidance and Multinational Profit Shifting) Bill 2013: Schedule 2 - Modernisation of transfer pricing rules**

We appreciate the opportunity to make a submission on *Tax Laws Amendment (Countering Tax Avoidance and Multinational Profit Shifting) Bill 2013* (the Bill) and accompanying Explanatory Memorandum (the EM) which was referred to the Senate's Standing Committee on Economics (the Committee) by the Selection of Bills Committee on 13 March 2013. Our submission only addresses Schedule 2 to the Bill (Modernisation of the transfer pricing rules).

Report No.3 of 2013 of the Selection of Bills Committee, Appendix 4 (the Report) indicated that submissions or evidence to assist the Committee's review of Schedule 2 of the Bill could be provided by impacted companies. In this respect, and to assist the Committee's review of Schedule 2, KPMG conducted a survey of our clients. A key objective of the survey was to obtain the views of a range of companies (small-to-medium, large and very large by turnover) likely to be impacted by the proposals contained in Schedule 2. We received 46 responses to the survey.

Our intention in providing this submission is to highlight our key areas of concern and also key concerns raised with us by our clients.

We would be pleased to discuss our submission and the responses received from our clients to KPMG's survey with the Committee.

KPMG has also played a significant role in drafting the submission for The Tax Institute and supports the issues raised in that submission.

**Introduction**

Following consultation held with Treasury on 7 December 2012, we understood the Government's underlying policy objectives with respect to the Bill could be broadly expressed in the following terms:

- To align Australia's transfer pricing rules with international best practice as expressed in the 2010 OECD Transfer Pricing Guidelines (OECD guidelines);
- To maintain the 'single entity' approach with respect to the attribution of profits to permanent establishments (PEs);
- To give legislative effect to the current administrative practices set out in ATO transfer pricing rulings in relation to record keeping and penalties (in particular TR 98/11 and TR 98/16); and
- To ensure that the rules are "sufficiently robust to protect the Australian tax base – but they also need to be balanced so as not to overreach or impose transaction costs which may inhibit Australian's international competitiveness<sup>1</sup>".

We base the key comments outlined in our submission on the above understanding. Unless otherwise indicated, all section references are to sections of the Bill.

### **Analysis of responses received from KPMG's client survey**

As an initial observation, our survey clearly shows that penalty protection is an important driver of taxpayer behaviour with respect to the preparation of transfer pricing documentation and that this is the case irrespective of the size of the company.

Given this, the impact to taxpayers of the Bill, if passed in its current form:

- Will require moderate or significant modifications to be made to existing transfer pricing documentation irrespective of the size of the company;
- Is likely to increase taxpayer compliance costs;
- Does not provide an appropriate de minimis threshold with respect to penalties where a transfer pricing adjustment is made;
- Makes the cost/benefit analysis associated with preparing transfer pricing documentation in order to mitigate penalties less favourable (greater impact for larger companies); and
- Is likely to increase the risk of double taxation arising and also makes obtaining double tax relief under the Mutual Agreement Procedure / Competent Authority Process more difficult.

A full list of the questions contained within the survey, a summary of the responses received and KPMG's analysis of the responses received is contained in Appendix A.

### **Key areas of concern**

We are concerned, as are a significant majority of our clients that responded to our survey, that the Bill does not strike an appropriate balance between protecting the revenue and the additional compliance burden and uncertainty that will arise for taxpayers if the Bill is enacted in its current form. In this respect, we urge the Committee to recommend that Treasury be asked to

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<sup>1</sup> Statement from 1 November 2011 Consultation Paper.

undertake further consultation with relevant stakeholders with a view to having the Bill amended to achieve a more appropriate balance between these competing objectives.

Our key areas of concern with the Bill and accompanying EM, having regard to the Government's underlying policy objectives and also more generally, are outlined below.

### ***Reconstruction of transactions***

#### *Subsections 815-130(2)-(4) are not consistent with OECD guidelines*

The potential for the Commissioner to reconstruct actual transactions for tax purposes as set out in the Bill is not in keeping with the policy objective of aligning Australia's transfer pricing rules with international best practice as expressed in the OECD guidelines. This is because under subsections 815-130(2)-(4), the arm's length conditions replace the actual conditions in *all* cases where a taxpayer obtains a transfer pricing benefit. As a result, these provisions do not limit the potential for the ATO to reconstruct transactions. This position can be contrasted with the OECD guidelines which focus on actual transactions conducted and only countenance reconstructing actual transactions in limited 'exceptional' circumstances (paragraphs 1.64 and 1.65 of the OECD guidelines).

In our view, recourse to section 815-135 (Guidance) together with certain comments made in the EM, does not provide sufficient certainty that the principle stated in paragraphs 1.64 and 1.65 of the OECD guidelines, that the reconstruction of actual transactions should only occur in exceptional cases, has been imported into subsections 815-130(2)-(4).

#### *Recommendation*

The Committee should recommend that subsections 815-130(2)-(4) be amended to ensure that they can only be applied in limited exceptional cases, consistent with the OECD guidelines.

The Committee should also recommend that clearer guidance be provided in Subdivision 815-B in relation to when a transaction is being reconstructed (as a consequence of the application of subsections 815-130(2)-(4)) in contrast to when the pricing of a transaction is being adjusted having regard to a comparability analysis (as a consequence of subsection 815-115(1) applying).

#### *Subsection 815-130(4) is likely to result in harsh and potentially inappropriate outcomes in some cases*

The annihilation provision in subsection 815-130(4), which seeks to calculate the transfer pricing benefit by disregarding the actual arrangement between the parties, is likely to result in harsh and potentially inappropriate outcomes in cases where real activities are being undertaken by the Australian taxpayer. Paragraphs 3.105 and 3.106 of the EM confirm that the actual arrangement is to be disregarded.

Notwithstanding section 815-135, subsection 815-130(4) is inconsistent with paragraphs 1.11, 1.67 and 9.172 of the OECD guidelines which recognise that multinational enterprises may engage in transactions that independent enterprises would not undertake and does not automatically regard such transactions as being non-arm's length nor not commercially rational.

### *Recommendation*

The Committee should recommend that subsection 815-130(4) be amended to enable real activities undertaken by Australian taxpayers to be taken into account in determining whether a taxpayer has obtained a transfer pricing benefit.

### ***Record keeping and penalty requirements***

*The Bill is not consistent with the current administrative practices of the ATO*

The Bill as currently drafted is not consistent with the current administrative practices of the ATO in relation to record keeping and penalties in a number of key respects. The Bill therefore does not accurately reflect the policy intention to give legislative effect to the current administrative practices set out in ATO transfer pricing rulings in relation to record keeping and penalties (in particular TR 98/11 and TR 98/16). In this regard the bill:

- does not distinguish between the quantum, proportion or complexity of a taxpayer's cross-border dealings contrary to the ATO's current administrative approach set out, in particular, in paragraph 1.9 of TR 98/11; and
- has not been drafted having regard to reducing documentation requirements for small businesses contrary to the approach taken in Chapter 6 of TR 98/11.

Further, Subdivision 284-E does not leave any meaningful scope for the ATO to remit penalties under section 298-20 of the *Taxation Administration Act 1953* (TAA 1953) to a rate less than 10% and therefore does not encourage voluntary compliance.

More particularly, the Bill as currently drafted does not accurately reflect the policy intention in relation to record keeping as set out in paragraphs 6.25 and 6.26 of the EM with potentially adverse consequences for taxpayers. Paragraphs 6.25 and 6.26 of the EM state the policy intention to be that "an entity only maintain and prepare documentation in respect of those conditions that are both material and relevant to the application of Subdivision 815-B and 815-C to them." However, there is nothing on the face of the text in proposed subsections 284-250 or 284-255 of Schedule 1 to the TAA 1953 that enables taxpayers or the Commissioner to have regard to issues of materiality or relevance of conditions for the purposes of determining the records that need to be kept.

The key concern here is that taxpayers cannot point to the EM with a view to obtaining a more favourable interpretation of the law in cases where the meaning of the text of the law is clear and results in a different and less favourable outcome for them. As reiterated in recent High Court cases, the task of statutory construction must begin with a consideration of the statutory text itself considered in its context. Legislative history and extrinsic materials cannot displace the meaning of the statutory text (*Alcan (NT) Alumina Pty Ltd v Commissioner of Territory Revenue* [2009] HCA 41 at paragraph 47; *Commissioner of Taxation v Consolidated Media Holdings Ltd* [2012] HCA 55 at paragraph 39). Section 15AB of the *Acts Interpretation Act 1901* (use of extrinsic material) does not assist where the meaning of the statutory text is clear on its face.

### *Recommendation*

The Committee should recommend that Subdivision 284-E be amended to:

- more closely align with the current administrative practices set out in ATO transfer pricing rulings in relation to record keeping and penalties (in particular TR 98/11);
- ensure that the statutory text clearly and accurately reflects the policy intention set out in paragraphs 6.25 and 6.26 of the EM; and
- leave meaningful scope for the ATO to remit penalties under section 298-20 of the TAA 1953 to a rate less than 10% with the aim of encouraging voluntary compliance.

*The Bill will result in transfer pricing penalties applying even where a taxpayer has a reasonably arguable position (RAP)*

Where a taxpayer has a RAP in relation to the way the tax laws apply to a particular matter, administrative penalties are often not imposed with respect to the underpayment of tax by a taxpayer as a consequence of the Commissioner issuing an amended assessment on the basis that the tax laws apply in a different way in relation to that matter.

However, the Bill will impose administrative penalties on transfer pricing adjustments at a minimum rate of 10% of the underpaid tax notwithstanding that a taxpayer has a RAP. Further, a precondition to having a RAP is that a taxpayer must have satisfied the record keeping requirements to be introduced by the Bill.

This can be contrasted with the situation under current ATO administrative arrangements whereby the ATO will generally remit transfer pricing penalties to nil where a taxpayer has maintained transfer pricing documentation consistent with the four-step process set out in TR 98/11 and that documentation is rated by the ATO as being at least medium-to-high quality. The Bill will therefore materially change the administrative arrangements that the ATO has had in place for 15 years under TR 98/11 and TR 98/16 and will require taxpayers to do more in relation to record keeping but provide them with a less favourable outcome as a result.

Although the Commissioner has a general power of remission, the Bill leaves little practical scope for the Commissioner to remit penalties to less than the proposed 10% minimum.

A threshold should be introduced that would result in taxpayers with RAPs not having administrative penalties imposed in the event of a transfer pricing adjustment. As KPMG's client survey clearly shows, penalty mitigation is a key driver of taxpayer behaviour with respect to the preparation of transfer pricing documentation and that this is the case irrespective of the size of the company. Such a change would also be consistent with the way in which penalties apply in non-transfer pricing cases.

### *Recommendation*

A threshold should be introduced into the penalty provisions that would result in no transfer pricing penalties being imposed where a taxpayer satisfies all of the following criteria:

- Meets the documentation requirements in Subdivision 284-E of Schedule 1 to the TAA 1953;
- Has a RAP within the meaning of section 284-15 of Schedule 1 to the TAA 1953; and
- Has a scheme shortfall amount less than \$5,000,000.

In our view, a \$5,000,000 threshold would provide a sufficient incentive, particularly for small-to-medium taxpayers, to keep the records required by proposed Subdivision 284-E of Schedule 1 to the TAA 1953.

#### *De minimis penalty threshold*

The de minimis thresholds of \$10,000 and \$20,000 that are applicable for the purposes of proposed section 284-165 of Schedule 1 to the TAA 1953 in cases where a taxpayer does not have a RAP are too low to achieve their intended purpose. These thresholds will not carve out many enterprises operating in the small-to-medium enterprise market as intended, as the international operations of these entities typically far exceed the proposed thresholds.

In the context of transfer pricing, a \$10,000 threshold for companies is extremely unlikely to be of any real value. Based on the responses to KPMG's survey, our clients have indicated that a de minimis threshold in the range of \$10,001 to \$100,000 would be more appropriate.

#### *Recommendation*

The Committee should recommend that the reasonably arguable (de minimis) threshold should be at least \$100,000.

#### *Time limits for amending assessments*

A compelling case has not been made as to why the Commissioner should be given a 7-year time limit for amending assessments under paragraphs 815-150(1)(a) and 815-240(a) rather than applying the normal time limits for amending assessments under section 170 of the *Income Tax Assessment Act 1936* (ITAA 1936). In this respect, it is particularly important to note:

- Subsection 170(7) of the ITAA 1936 provides the Commissioner with the ability to obtain additional time in which to complete an examination of a taxpayer's affairs where an examination has been commenced but not completed before the expiry of the normal 4-year amendment period;
- The ATO's ability to obtain information necessary for the purpose of conducting transfer pricing examinations has significantly improved since the current Division 13 was introduced into the tax laws more than 30 years ago. For example:
  - In 1982, when the current Division 13 was introduced into the tax laws Australia had around 15 comprehensive double tax agreements ("DTAs") in force that included an exchange of information article. An exchange of information article provides a mechanism by which information necessary for purposes of administering domestic tax laws can be supplied between the treaty partners. By way of contrast, Australia

currently has around 44 comprehensive DTAs in force that include an exchange of information article;

- Since November 2005, Australia has also concluded 33 Tax Information Exchange Agreements (“TIEAs”) which are in force, primarily with countries commonly regarded as tax havens or offshore financial centres that include an exchange of information article; and
- The OECD has taken significant steps in the last 10 years at both a framework level and at a practical level to enhance the exchange of information between tax treaty partners.

*Recommendation*

The Committee should recommend that the normal time limits for amending assessments under section 170 of the ITAA 1936 should apply in transfer pricing cases.

***Interaction between the transfer pricing rules and customs duty rules***

The Bill does not address the interaction between the transfer pricing rules and customs duty rules. Transfer pricing adjustments involving the importation of goods, particularly adjustments resulting from the use of profit methods, can cause customs duty problems, because a separate adjustment needs to be sought from Customs in order to obtain a refund of any overpaid customs duty. Obtaining such customs duty adjustments is not straightforward. A whole-of-government approach is needed with the aim of creating a simple legislative mechanism by which taxpayers can obtain refunds of any overpaid customs duty following the making of a transfer pricing adjustment by the ATO.

*Recommendation*

The Committee should recommend that a whole-of-government approach be instituted with the aim of creating a simple legislative mechanism by which taxpayers can obtain refunds of any overpaid customs duty following the making of a transfer pricing adjustment by the ATO.

We would appreciate discussing these and any other issues relevant to the Bill and the EM with the Committee. In this regard please feel free to call us at any time.

Yours faithfully

Yours faithfully

Anthony Seve  
Partner

Damian Preshaw  
Director



*Tax Laws Amendment (Countering Tax Avoidance and  
Multinational Profit Shifting) Bill 2013: Schedule 2 -  
Modernisation of transfer pricing rules  
12 April 2013*

## **Appendix A**

## Appendix A – KPMG Client Survey

Report No.3 of 2013 of the Selection of Bills Committee, Appendix 4 (the Report) referred *Tax Laws Amendment (Countering Tax Avoidance and Multinational Profit Shifting) Bill 2013: Schedule 2 - Modernisation of transfer pricing rules* (the Bill) to the Senate's Standing Committee on Economics (the Committee). The Report states that the reasons for referral/principal issues for consideration by the Committee related to:

- De minimis threshold
- Documentation requirements
- ATO's power to 'reconstruct'
- Financial impact

The Report also indicated that submissions or evidence to assist the Committee's review of Schedule 2 of the Bill could be provided by impacted companies.

To assist the Committee's review of Schedule 2 of the Bill, KPMG conducted a survey with a range of our clients. The objective of the survey was to provide companies potentially impacted by the Bill with the opportunity to share their views, particularly in relation to the documentation requirements and the de-minimis threshold.

Respondents to the survey were asked to provide their views on a range of subjects in relation to the Bill. We received 46 responses to the survey. Responses were provided on an anonymous basis.

A full list of the questions contained within the survey, a summary of the responses received and KPMG's analysis of the responses received is set out in this Appendix.

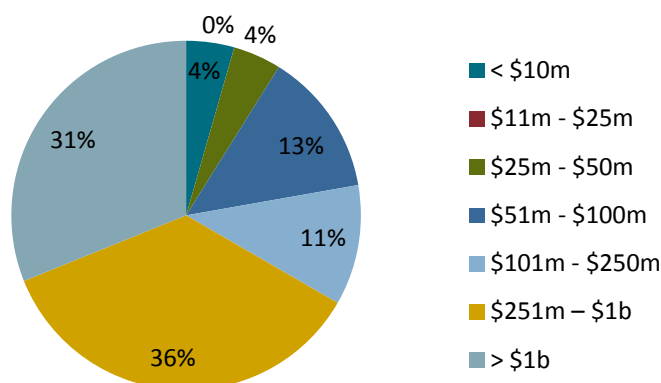
In this appendix, IRPDS stands for international related party dealings.

## Company profile

**Q1. What annual revenue (in AUD) did your company/group have in Australia in your most recently completed financial year?**

- ☐ < \$10m
- ☐ \$11m - \$25m
- ☐ \$25m - \$50m
- ☐ \$51m - \$100m
- ☐ \$101m - \$250m
- ☐ \$251m - \$1b
- ☐ > \$1b

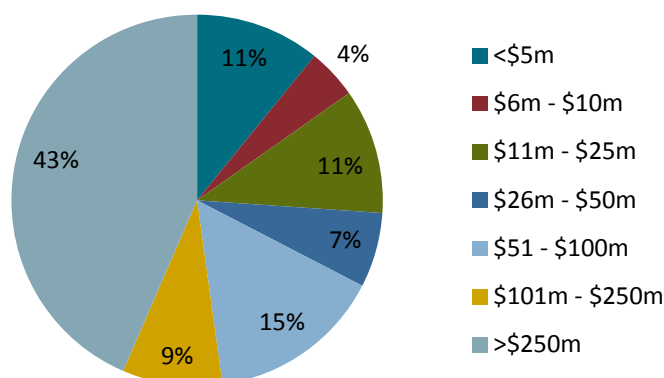
### Survey Results:



**2. What is the aggregate amount (in AUD) of cross-border dealings that you had with international related parties in your most recently completed financial year (including loan balances)?**

- ☐ <\$5m
- ☐ \$6m - \$10m
- ☐ \$11m - \$25m
- ☐ \$26m - \$50m
- ☐ \$51 - \$100m
- ☐ \$101m - \$250m
- ☐ >\$250m

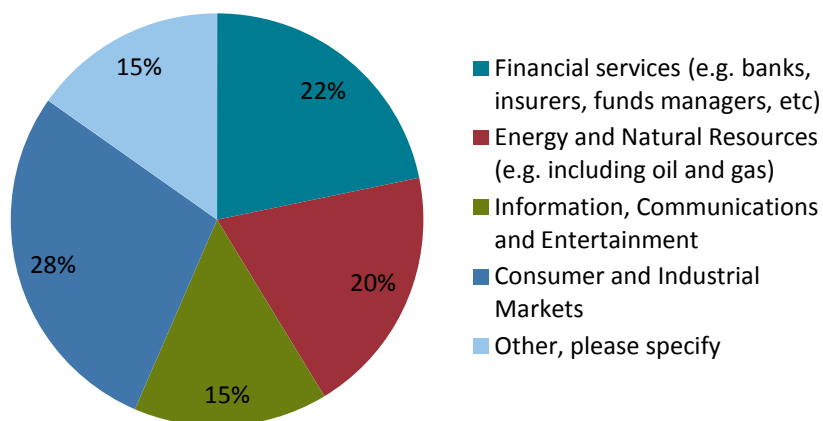
### Survey Results:



### 3. What industry do you operate in?

- Financial services (e.g. banks, insurers, funds managers, etc)
- Energy and Natural Resources (e.g. including oil and gas)
- Information, Communications and Entertainment
- Consumer and Industrial Markets
- Other, please specify

#### Survey Results:



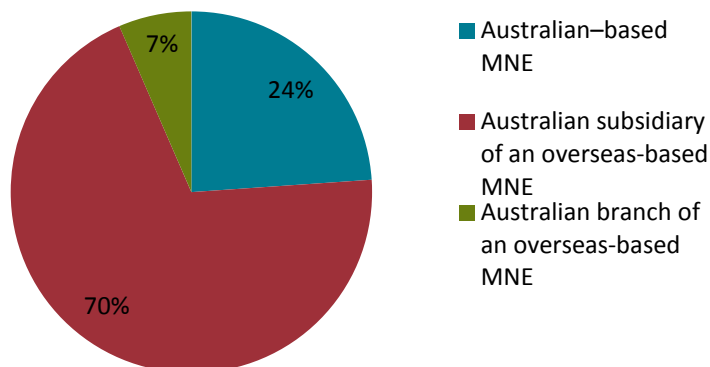
#### KPMG Observations:

- Other survey participants noted their primary industries as being logistics, consulting, legal, medical devices, engineering consultancy, construction and retail.

### 4. Are you an Australian-based multinational enterprise (MNE) or an Australian subsidiary/branch of an overseas-based MNE?

- Australian-based MNE
- Australian subsidiary of an overseas-based MNE
- Australian branch of an overseas-based MNE

#### Survey Results:



#### KPMG Observations:

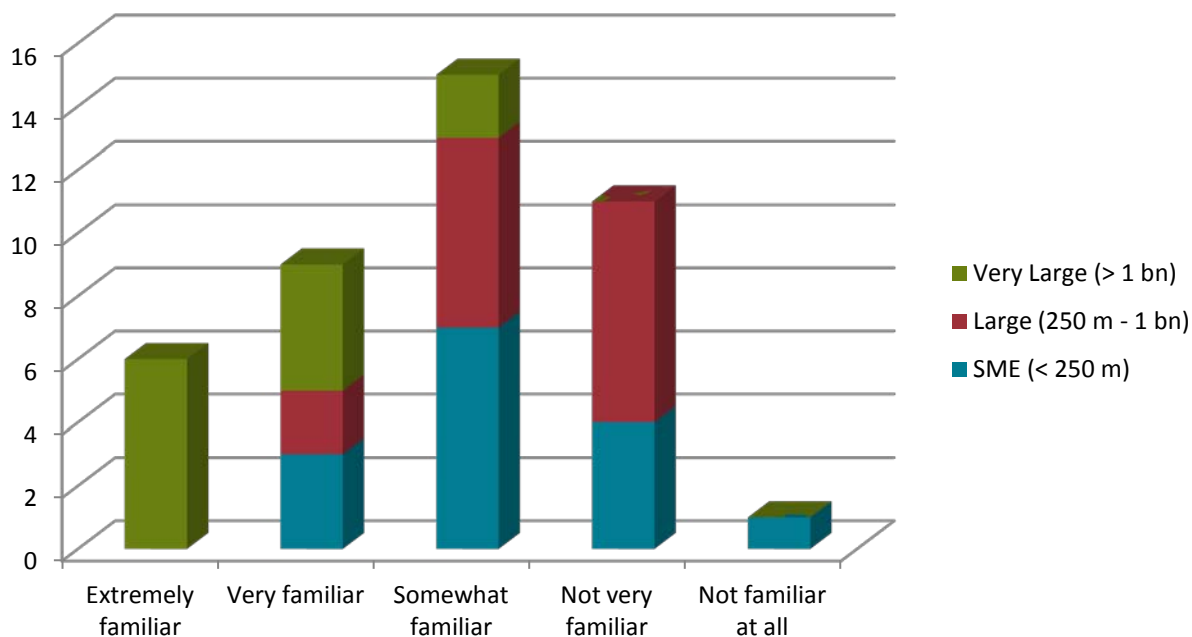
- Both Australian based and overseas MNEs are represented, providing insights into how the Bill will affect both inbound and outbound taxpayers (see later analysis for further detail).

## Familiarity with transfer pricing proposals contained in the Bill

### 1. How familiar are you with the transfer pricing aspects of the Bill?

- Extremely familiar
- Very familiar
- Somewhat familiar
- Not very familiar
- Not familiar at all

### Survey Results – By turnover:



### KPMG Observations:

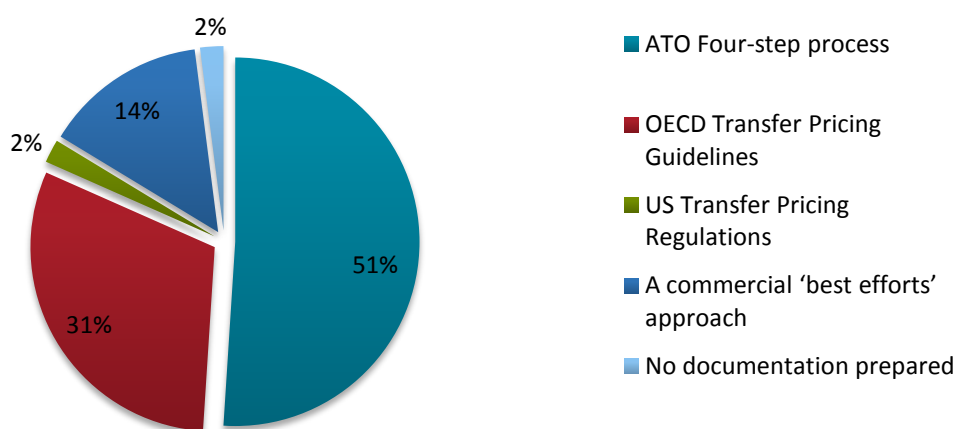
- SME's are generally somewhat familiar with the Bill, whereas Very Large entities tend to be very familiar with the Bill.
- This likely reflects their relative value at stake, and resourcing capabilities.

## Documentation requirements

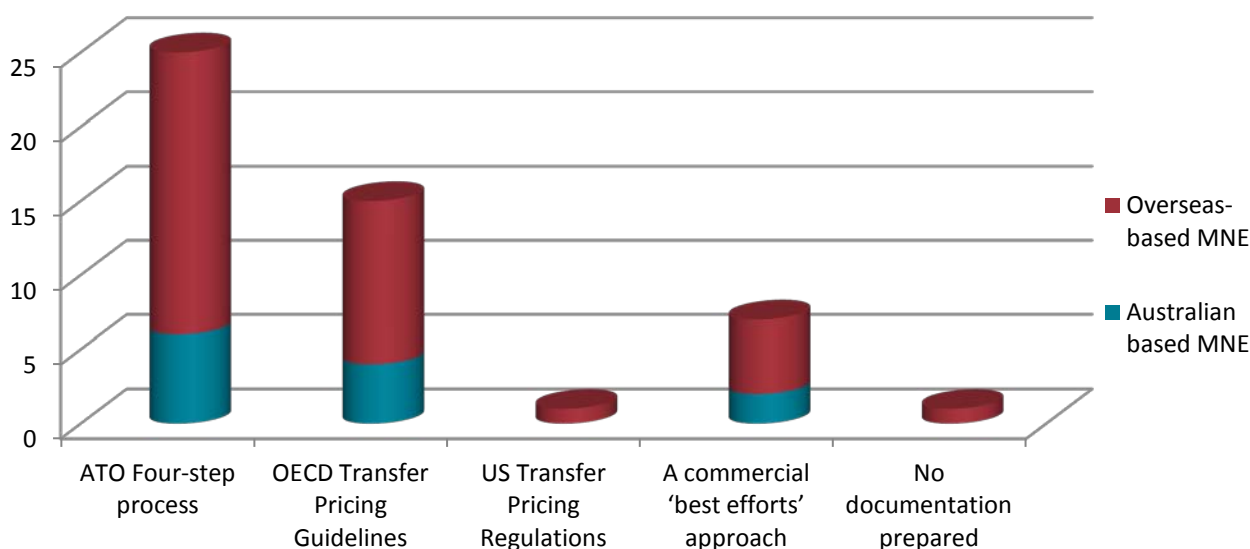
1. When your company/group prepares its transfer pricing documentation for Australia, is the documentation based on (select all that apply):

- ATO Four-step process (as described in Taxation Ruling TR 98/11)
- OECD Transfer Pricing Guidelines
- US Transfer Pricing Regulations
- A commercial 'best efforts' approach
- No documentation prepared

### Survey Results:



### Survey Results – By type of entity:



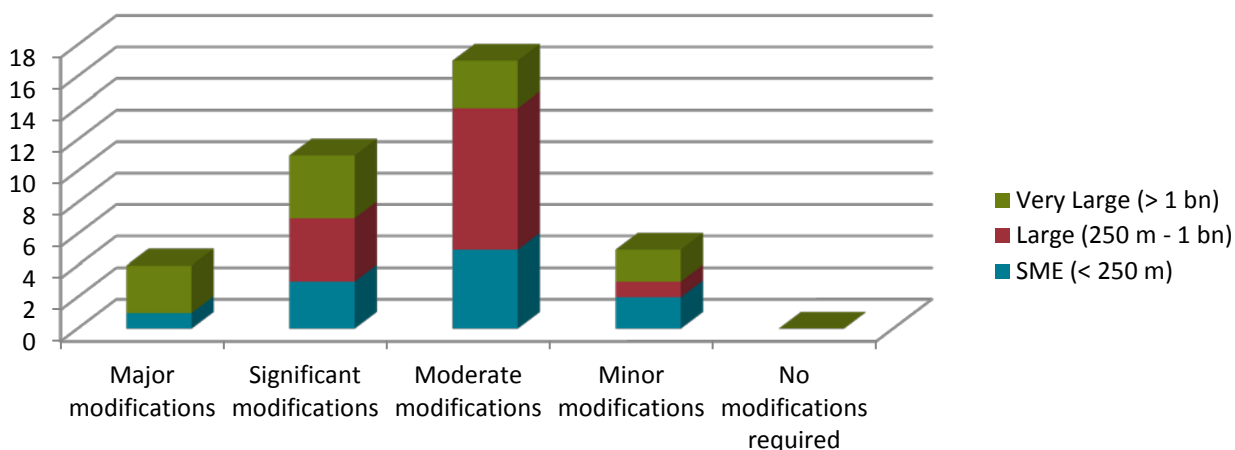
### KPMG Observations:

- The vast majority of respondents currently prepare transfer pricing documentation.
- Of the positive respondents, the majority follow the ATO's four-step process as outlined in Taxation Ruling TR 98/11.

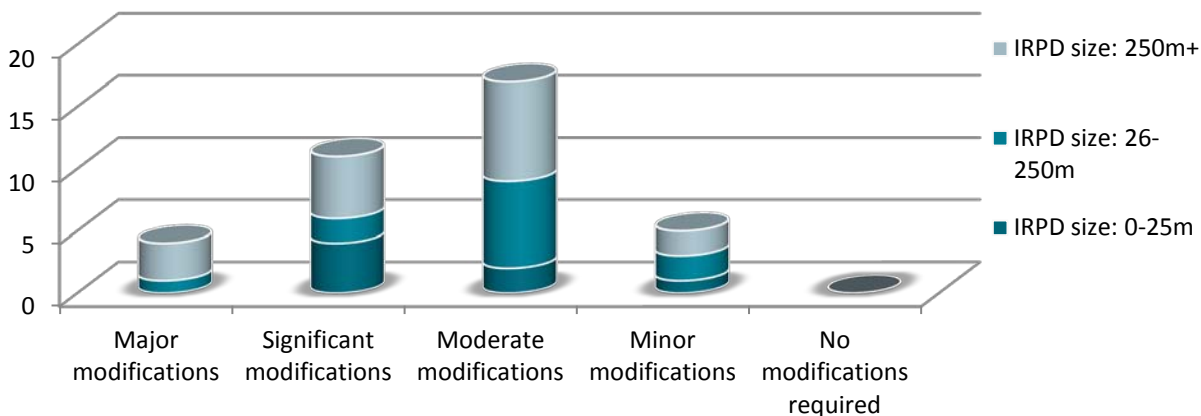
## 2. To what extent to do you think modifications will need to be made to your current transfer pricing documentation if the Bill becomes law?

- Major modifications
- Significant modifications
- Moderate modifications
- Minor modifications
- No modifications required

### Survey Results – By turnover:



### Survey Results – By size of IRPDs:



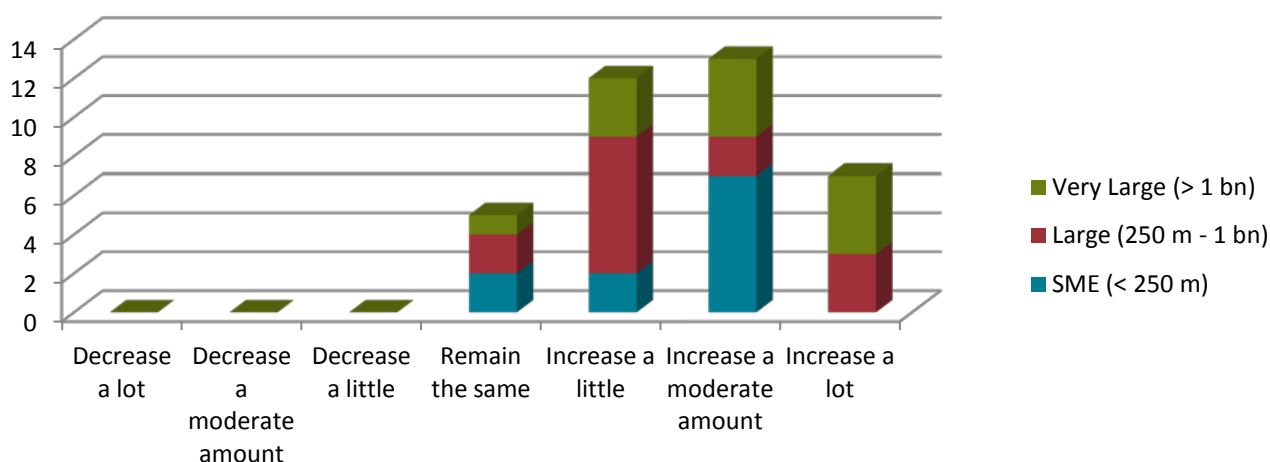
### KPMG Observations:

- Respondents anticipate that moderate to significant modifications will be required to their existing transfer pricing documentation.
- Respondents raised the following additional points:
  - “We have an APA in place so hopefully we won't need to change much.”
  - “The breadth of the reconstruction provisions means that taxpayers will have to address in their documentation all the ways in which some hypothetical taxpayer might alternatively have structured an arrangement if conditions are purportedly not arm's length, and this requirement is not limited to 'exceptional circumstances' as currently drafted.”

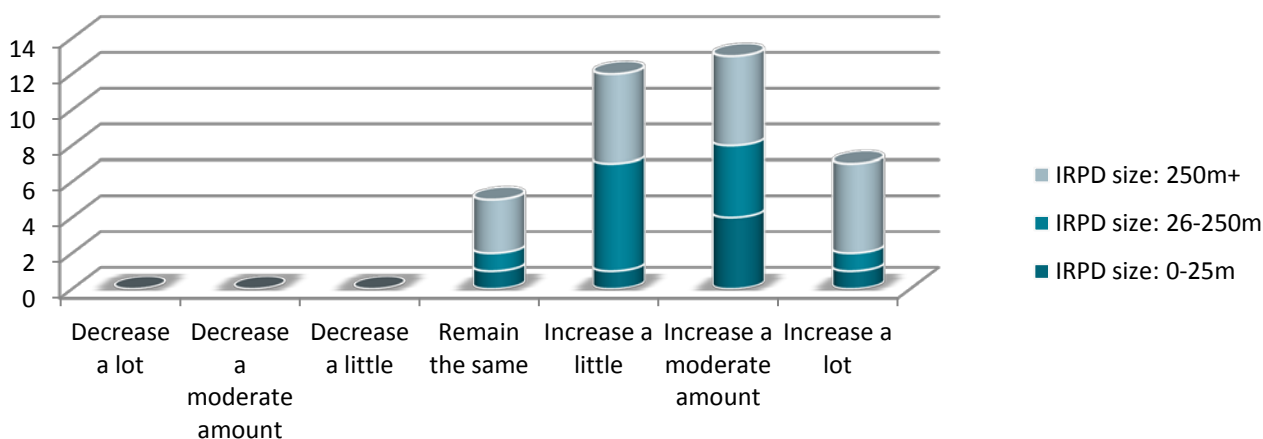
### 3. To what extent do you anticipate that fees paid to third party advisors in relation to compliance costs are likely to change if the Bill becomes law?

- Decrease a lot
- Decrease a moderate amount
- Decrease a little
- Remain the same
- Increase a little
- Increase a moderate amount
- Increase a lot

#### Survey Results – By turnover:



#### Survey Results – By size of IRPDs:



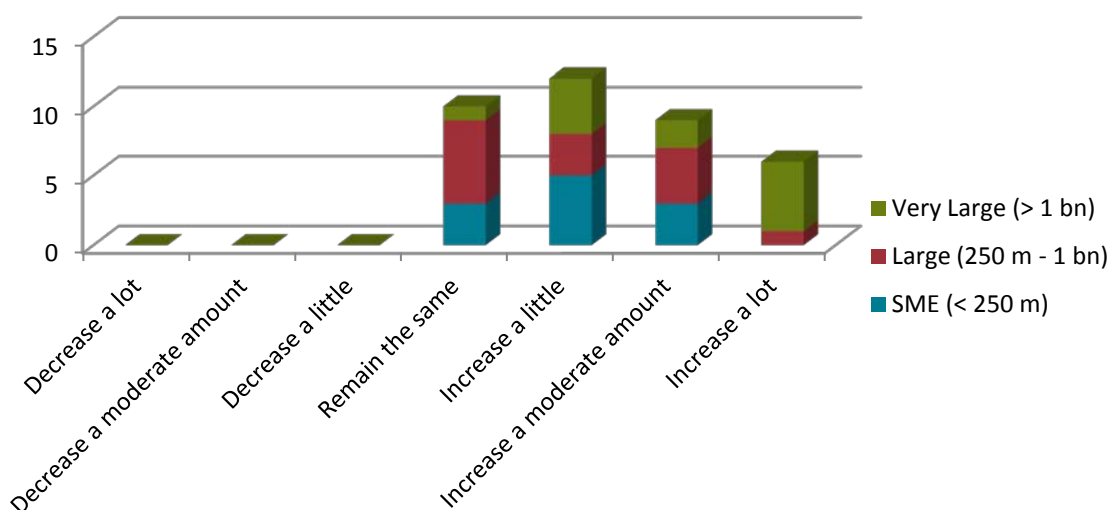
#### KPMG Observations:

- Respondents across all sizes anticipate that compliance costs will increase, particularly SMEs as a percentage of respondents who anticipate moderate increases.

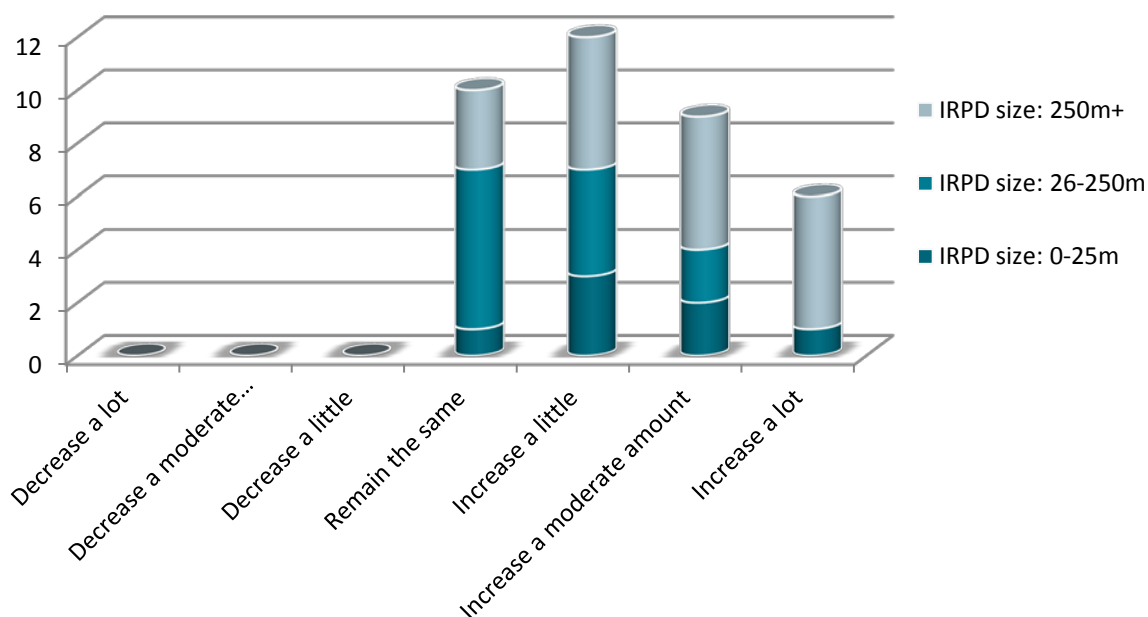
#### 4. To what extent do you anticipate your in-house resource requirements are likely to change in relation to compliance costs if the Bill becomes law?

- Decrease a lot
- Decrease a moderate amount
- Decrease a little
- Remain the same
- Increase a little
- Increase a moderate amount
- Increase a lot

##### Survey Results – By turnover:



##### Survey Results – By size of IRPDs:



##### KPMG Observations:

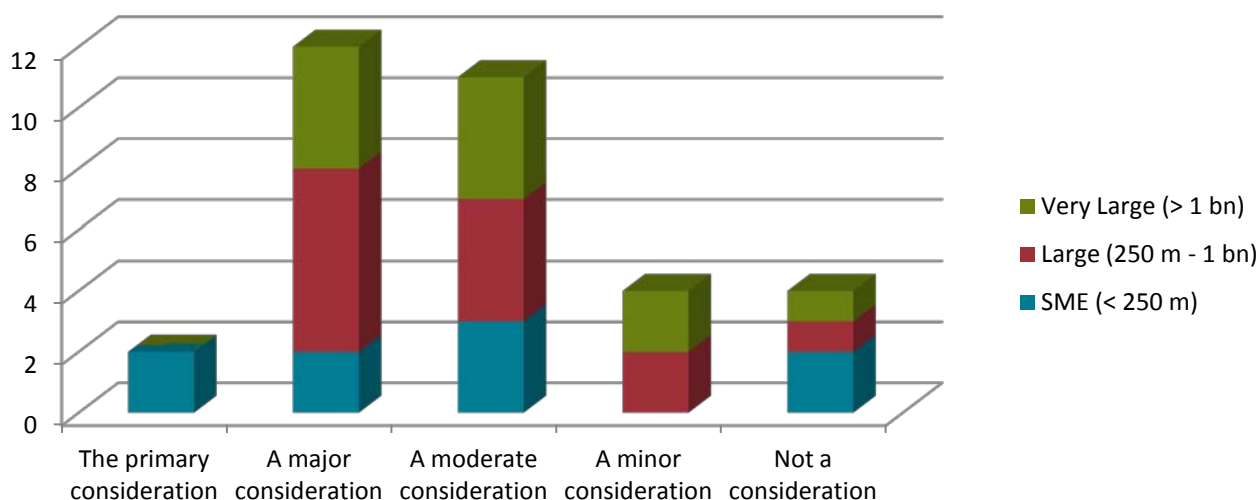
- Respondents across all sizes anticipate that resourcing needs will increase as a result of the passing of the Bill.

## Penalties

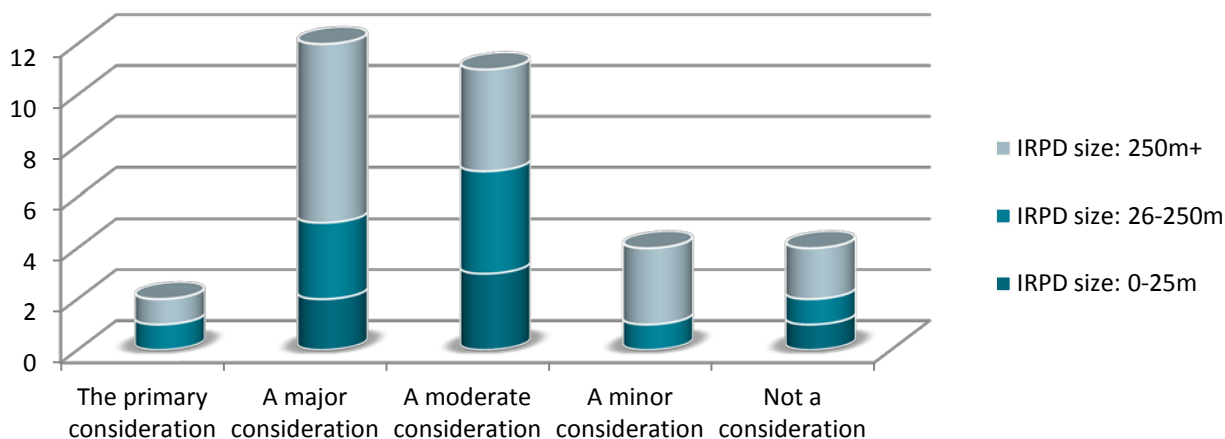
**1. To what extent is penalty protection under current law (e.g. penalty remission to nil in accordance with TR 98/16) a key driver for the preparation of your company/group's transfer pricing documentation for Australia?**

- The primary consideration
- A major consideration
- A moderate consideration
- A minor consideration
- Not a consideration

### Survey Results – By turnover:



### Survey Results – By size of IRPDs:



### KPMG Observations:

- **Penalty protection is a moderate or major driver for the preparation of transfer pricing documentation for taxpayers across the entire size spectrum surveyed.**

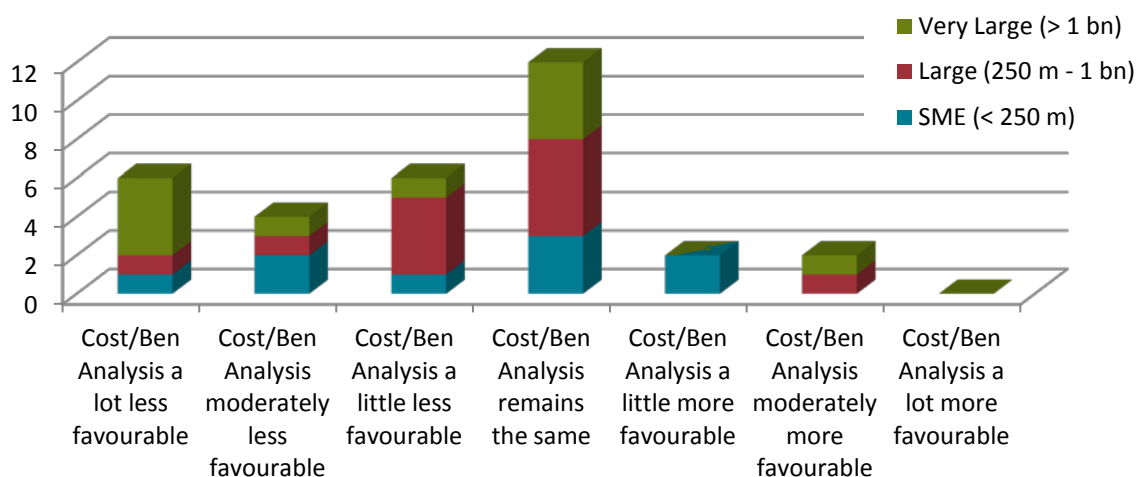
Having regard to:

- I. Potential modifications that might need to be made to your current transfer pricing documentation for Australia if the Bill becomes law; and
- II. The extent to which penalty protection is a driver for the preparation of your company/group's transfer pricing documentation for Australia.

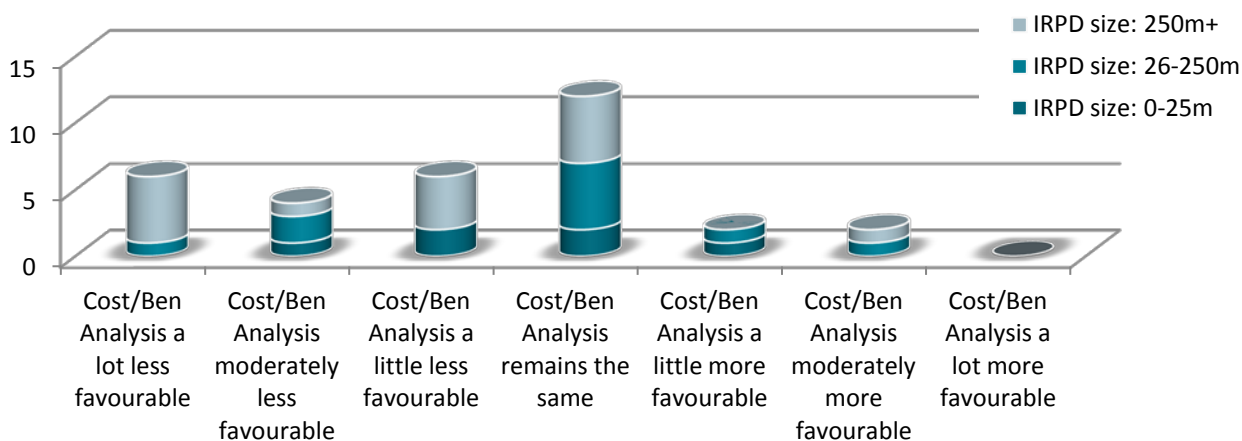
**2. How do these considerations change the cost/benefit analysis ("Cost/Ben Analysis") associated with preparing transfer pricing documentation for Australia?**

- o Cost/benefit analysis a lot less favourable
- o Cost/benefit analysis moderately less favourable
- o Cost/benefit analysis a little less favourable
- o Cost/benefit remains the same
- o Cost/benefit analysis a little more favourable
- o Cost/benefit analysis moderately more favourable
- o Cost/benefit analysis a lot more favourable

**Survey Results – By turnover:**



**Survey Results – By size of IRPDs:**



### KPMG Observations:

- In general respondents were inclined to think that the cost/benefit analysis of preparing transfer pricing documentation was either broadly the same, or to some degree less favourable under the Bill.
- Nearly 20% of respondents feel that the cost/benefit analysis is a lot less favourable under the Bill.
- Respondents raised the following additional points:
  - “We currently have Regional documentation under US/OECD guidelines which we can modify to meet the Australian requirements.”

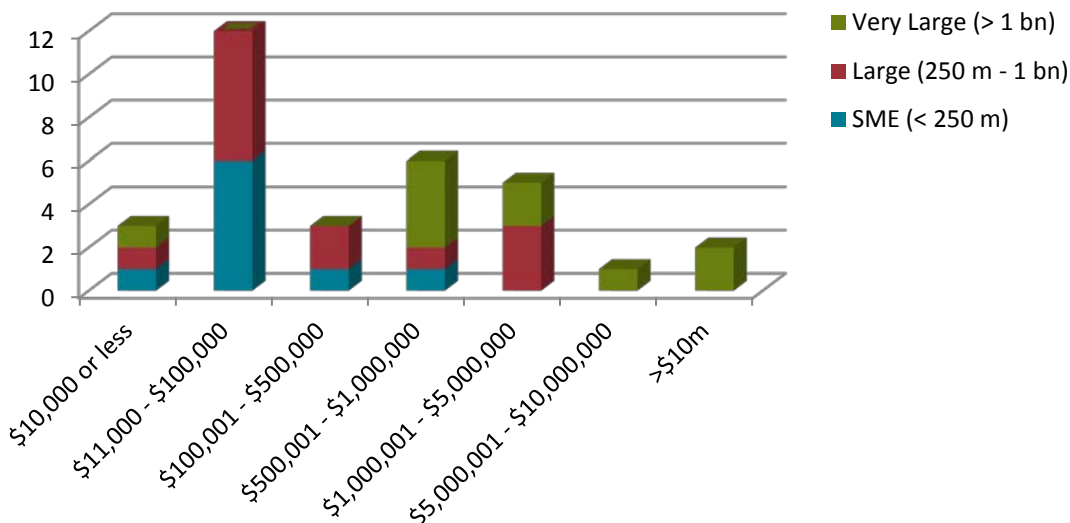
The Bill contains a de-minimis threshold for penalties (\$10,000 or 1% of income tax payable). However, certain preconditions apply, as taxpayers will need to have:

- Documentation satisfying the requirements of Subdivision 284-E; and
- A reasonably arguable position.

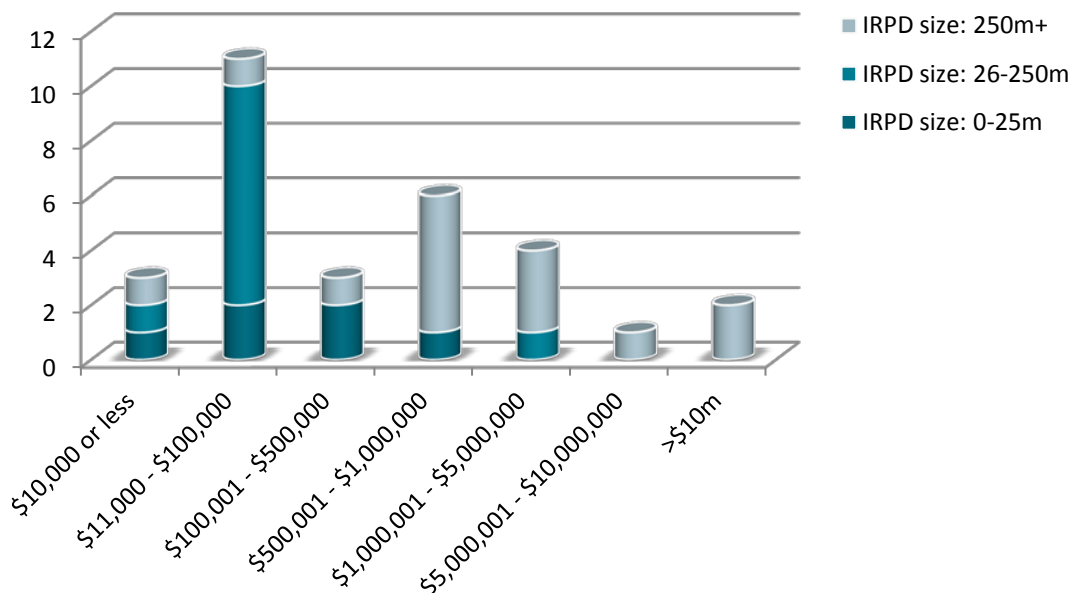
3. In light of the threshold, and related conditions, at what point (in AUD) would the de-minimis threshold for penalties need to be set for you to consider it to be of real value?

- \$10,000 or less
- \$11,000 - \$100,000
- \$100,001 - \$500,000
- \$500,001 - \$1,000,000
- \$1,000,001 - \$5,000,000
- \$5,000,001 - \$10,000,000
- >\$10m

### Survey Results – By turnover:



### Survey Results – By size of IRPDs:



### KPMG Observations:

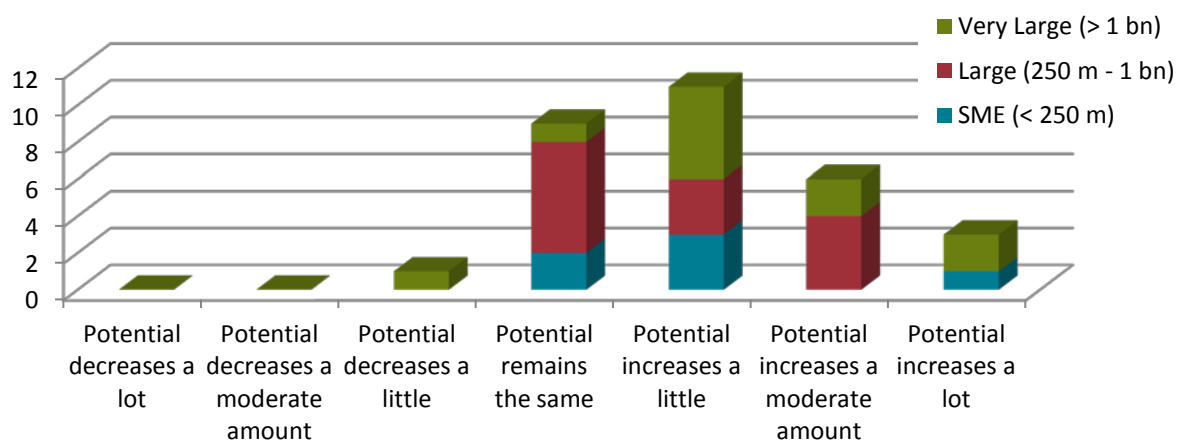
- A strong preference was expressed for a de minimis threshold higher than that which is currently contemplated in the Bill for it to be of “real value”.
- A strong preference was indicated for a de minimis threshold of up to \$100k.
- Respondents raised the following additional points:
  - “De-minimis rules should apply on a transaction basis. If these are applied on an overall total cross border transaction \$ basis, large multinationals will always fall outside these rules. However, for large multinationals there will be various cross border transactions with different risk profiles and different amounts. Having a de-minimis rule on a transaction basis will significantly ease the compliance burden and better reflect the manner in which TP risks are managed in practice.”
  - “It depends upon the cost of modifying our existing documentation. If the penalties start creeping past \$50k, then we will rethink the matter.”

## Double taxation

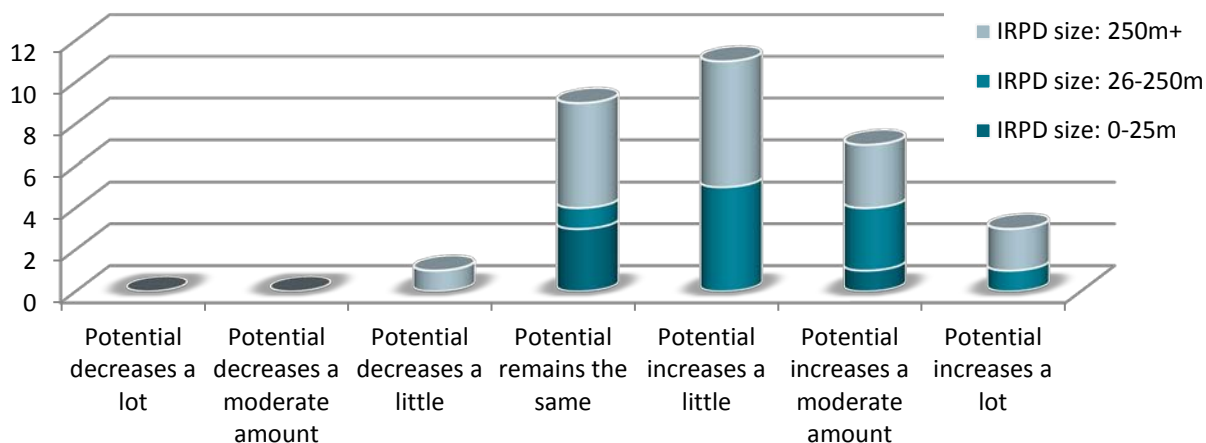
### 1. What impact do you think the Bill becoming law will have on the potential for double taxation to arise?

- Potential decreases a lot
- Potential decreases a moderate amount
- Potential decreases a little
- Potential remains the same
- Potential increases a little
- Potential increases a moderate amount
- Potential increases a lot

### Survey Results – By turnover:



### Survey Results – By size of IRPDs:



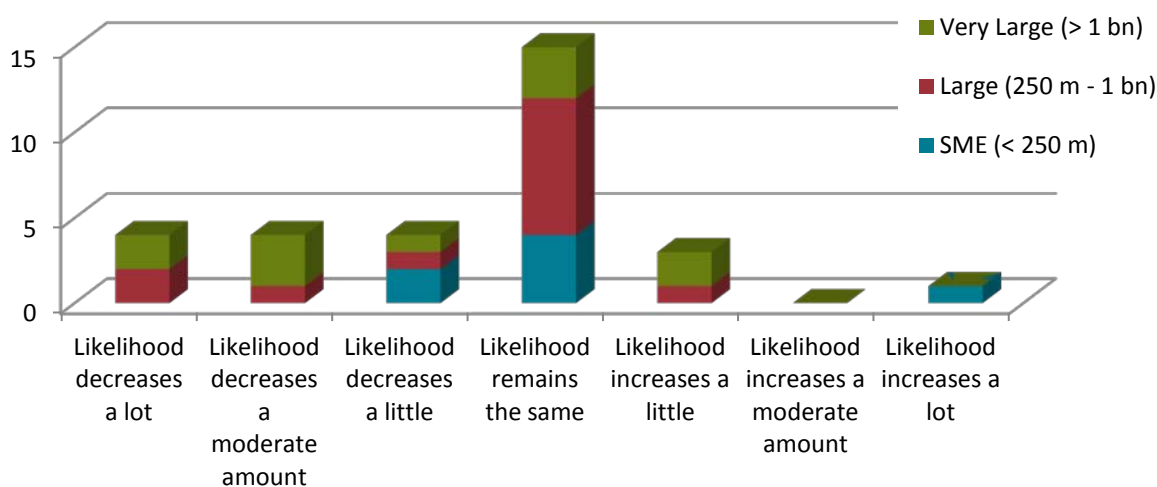
### KPMG Observations:

- Respondents generally see the Bill as raising the likelihood of double taxation arising.
- Respondents raised the following additional points:
  - “What guarantees are there that the other jurisdiction will agree with the Australian Taxation Office position?”
  - “It depends upon the other jurisdictions. Some countries can be quite unreasonable.”

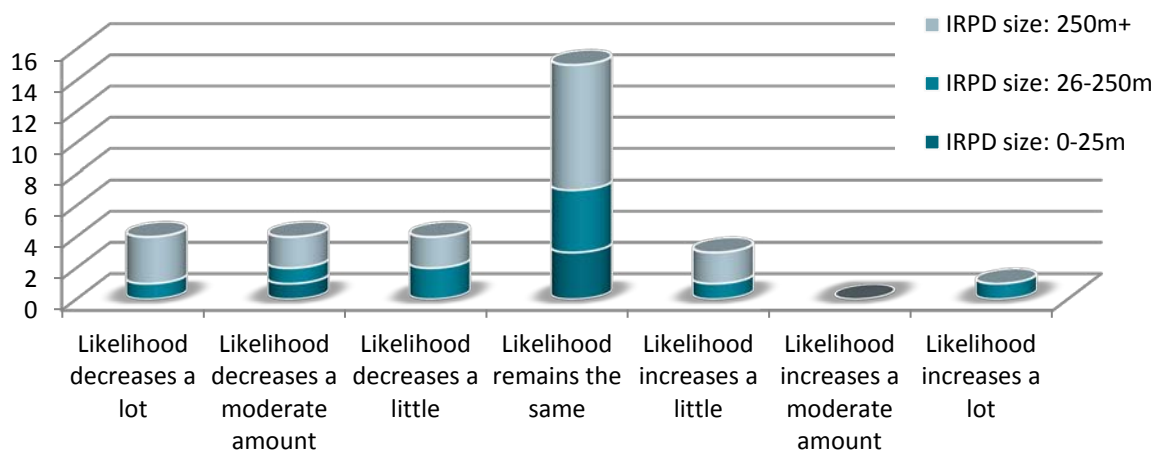
## 2. What impact do you think the Bill becoming law will have on the likelihood of being able to achieve double tax relief via the Mutual Agreement Procedure / Competent Authority Process?

- Likelihood decreases a lot
- Likelihood decreases a moderate amount
- Likelihood decreases a little
- Likelihood remains the same
- Likelihood increases a little
- Likelihood increases a moderate amount
- Likelihood increases a lot

### Survey Results – By turnover:



### Survey Results – By size of IRPDs:



### KPMG Observations:

- Respondents generally see the Bill as having a neutral impact on the ability to achieve double tax relief via the Mutual Agreement Procedure.
- Respondents raised the following additional points:
  - “Countries such as South Korea and India are not interested in what changes are made in Australia.”



*cutting through complexity*

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