



7 June 2013

Senate Standing Committees on Economics  
PO Box 6100  
Parliament House  
Canberra ACT 2600  
Australia  
Email: [economics.sen@aph.gov.au](mailto:economics.sen@aph.gov.au)

Dear Sir/Madam

**Inquiry into the *Tax Laws Amendment (2013 Measures No. 2) Bill 2013***

The Institute of Chartered Accountants Australia (the **Institute**) welcomes the opportunity to make a submission on *Tax Laws Amendment (2013 Measures No. 2) Bill 2013 (Bill)* and the explanatory material (**EM**) introduced into parliament on 29 May 2013. On 30 May 2013, the Bill was referred to the Senate Standing Committee on Economics (**Committee**) for inquiry and report by 17 June 2013.

The Institute is the professional body for Chartered Accountants in Australia and members operating throughout the world. Representing more than 70,000 current and future professionals and business leaders, the Institute has a pivotal role in upholding financial integrity in society. Members strive to uphold the profession's commitment to ethics and quality in everything they do, alongside an unwavering dedication to act in the public interest.

We wish to provide comments on Schedules 1, 5 and 7 to the Bill.

**Schedule 1 – Monthly pay as you go instalments**

The Institute believes that Schedule 1 of this Bill does not adequately address the cost of compliance that will be imposed on large entities. These costs are likely to be greater than the Government appears to anticipate. The explanatory memorandum of this Bill states the compliance cost impact of this measure is low which is open to debate. Nevertheless, in our opinion the impact could certainly have been lower if the computational approach taken in this schedule was modified.

The Institute made a number of positive suggestions on how to improve the calculation of instalment income in the submission to the February 2013 consultation paper in relation to this measure. It is unfortunate that our suggestions have effectively been deferred for subsequent consideration in follow up consultation processes. There is little evidence that in the intervening six months since the original announcement that the Government has given serious thought on ways to reduce the compliance effort. The Institute would ideally have preferred further consultation to discuss ways to reduce the compliance costs before, rather than after, the proposed amendments were introduced into Parliament.

A copy of the Institute's submission to Treasury of 12 April 2013 is available on request.

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## Schedule 5 - Tax secrecy and transparency

The Institute opposes these measures as in our view they will not achieve their stated policy purpose of enabling the public to better understand the corporate tax system and engage in tax policy debates. On the contrary, we consider that there is a clear risk that publication of this raw data will lead to a misunderstanding by the general public who might jump to incorrect conclusions. This in turn may lead to unfair outcomes such as reputational damage and consumer backlash.

Further, we believe that the proposal is an attempted shortcut that will be largely ineffective in discouraging aggressive tax minimisation practices. Other concerns include use of the term "fair share of tax" (as though this may be a different amount to that prescribed in legislation), increased costs to avoid reputational damage and inappropriate disclosure of the affairs of large proprietary companies.

A copy of the Institute's submission to Treasury of 24 April 2013 is available on request.

## Schedule 7 – Removing the Capital Gains Tax Discount for Foreign Individuals

The policy rationale for this measure appears to be that, because taxable Australian assets are immobile and produce location specific returns, an increase in effective tax rates by way of removal of the CGT discount will not impact foreign investment in these assets. The Institute questions the validity of this assertion, which is not substantiated by a regulatory impact statement, given the availability of other non-Australian investment options for international investors. Indeed, the very rationale for the introduction of the CGT discount was to *"make the rate of capital gains tax in Australia for individuals competitive to those in other countries, particularly the United States."* That will no longer be the case.

Further, the Explanatory Memorandum to the Bill estimates the expected revenue gain to be a modest \$55.0m over the forward estimates period and to impose small compliance costs on affected entities. We disagree. All foreign residents owning taxable Australian assets at 8 May 2012 will be required to obtain a market valuation of those assets at that date in order to preserve their entitlement to the 50% CGT discount in respect of unrealised gains to that date. Where those assets are held indirectly through trusts, we are advised that those costs will not be small.

A copy of the Institute's submission to Treasury of 8 April 2013 is available on request.

If you would like to discuss any aspect of this submission or require any further information, please do not hesitate to contact me on 02 9290 5609 at first instance. We would welcome the opportunity to discuss our concerns with the Committee in person.

Yours sincerely

**Paul Stacey CA**  
**Head of Tax Policy**  
**Institute of Chartered Accountants Australia**