
The Parliament of the Commonwealth of Australia

Advisory Report on the Tax Laws Amendment (2012 Measures No. 6) Bill 2012

House of Representatives
Standing Committee on Economics

February 2013
Canberra

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ISBN 978-0-642-79846-6 (printed version)

ISBN 978-0-642-79847-3 (HTML version)

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Chair's foreword

The Bill makes a range of amendments to the tax law. Three of the schedules, Schedules 2, 3 and 4, did not attract submissions from stakeholders and the committee accepts this as support or acceptance of them.

Schedule 2 updates the list of deductible gift recipients. The organisations that have been listed, or had their listing extended, include AE1 Incorporated, which seeks to locate and honour the crew of Australia's first submarine; Teach for Australia, which seeks to attract top graduates to teach in disadvantaged communities; and Australia for UNHCR, which raises funds to support the humanitarian programs of the United Nations High Commissioner for Refugees. These are important causes and the committee is pleased that they have been included in the Bill.

Schedule 3 extends the immediate deductibility of exploration expenditure, already provided to mining and petroleum explorers, to geothermal energy explorers. This will restore competitive neutrality in the sector and support a clean energy source.

Schedule 4 extends the interim streaming provisions for managed investment trusts from 2012 to 2014, in line with the Government's announcement to defer until 2014 the commencement of the new overall regime for managed investment trusts and the new general trust income rules. The committee expects that coordinating the commencement of these different systems will reduce compliance costs for taxpayers.

The committee received submissions in relation to the other four major schedules in the Bill. Schedule 1 clarifies the tax law so that payments under native title agreements will be subject to neither income tax nor capital gains tax. These reforms have been on the policy agenda since 1998 and the committee is of the view that this tax treatment is fully consistent with the unique nature of native title.

At the hearing, there was considerable support for the view that the Schedule should also provide preferential tax treatment for Indigenous community development corporations. This is outside the scope of the Bill and the committee does not believe that a recommendation along these lines would be appropriate. However, the committee would like to stress that native title is only 20 years old. Indigenous people have spent much of that time proving native title and are still learning how to release the economic potential of that title for the benefit of present and future traditional owners. The evidence given indicates that there is work to be done in finding consensus on what is an appropriate legal framework that recognises native title once transferred through a compensation payment to a monetary form. Finding that consensus will become more important as Indigenous communities explore new mechanisms to unlock the economic potential of native title for the benefit of their community now and in the future. However, as the purpose of Schedule 1 is to amend the tax law so that it largely reflects the way that the ATO has been applying the law in relation to native title, it should proceed. The committee expects that further legislative innovations will be introduced in the coming years.

Schedule 5 applies an income-based means test to the rebate for medical expenses. The AMA argued that a means test should not apply to a medical care safety net because illness does not discriminate on the basis of income. The committee nonetheless supports the Schedule because it will result in better targeted health expenditure and a more sustainable health system.

Schedule 6 amends the definition of limited recourse debt, following a High Court case in 2011 where BHP Billiton secured double deductions for its iron briquette plant in Western Australia. Although there was general support for the provisions, there were also concerns about retrospectivity and whether the Schedule should be limited to related party transactions, similar to the facts in the BHP Billiton case.

The committee was not unduly concerned about retrospectivity because the new law will apply from the date of announcement and the policy intent of the provisions is unchanged. Further, there has been only a short delay between the announcement and the introduction of the Bill. Although limiting the Schedule to related party transactions may be attractive, it overlooks the fact that the limited recourse debt rules play an important role in the wider integrity of the tax system.

Schedule 7 removes the concessional fringe benefit tax treatment for in-house fringe benefits accessed through salary sacrificing. In-house fringe benefits are those where the employer provides the same or similar goods or services as part of their business. The in-house provisions were initially included in the fringe benefits tax because the tax is imposed on employers and in-house benefits cost less to employers to provide them.

However, since then the in-house rules have evolved into a key element of employee remuneration in some industries, contrary to the original goal.

Overall, the Bill makes a range of amendments that protect the integrity of the tax system, closer aligns it to underlying policy, and achieves important social goals. The Bill should pass.

On behalf of the committee, I thank the organisations that assisted the committee during the inquiry through submissions or participating in the hearing in Canberra. I also thank my colleagues on the committee for their contribution to the report.

Julie Owens MP
Chair



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Membership of the Committee

Chair	Ms Julie Owens MP
Deputy Chair	Mr Steven Ciobo MP
Members	Mr Scott Buchholz MP Mr Stephen Jones MP The Hon Joel Fitzgibbon MP Dr Andrew Leigh MP Ms Kelly O'Dwyer MP Mr Craig Thomson MP

Committee Secretariat

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Terms of reference

On 29 November 2012 the Selection Committee referred the Tax Laws Amendment (2012 Measures No. 6) Bill 2012 to the committee for inquiry and report.

Under Standing Order 222(e), the House is taken to have adopted the Selection Committee's reports when they are presented.



List of abbreviations

ABL	Arnold Bloch Leibler
AIATSIS	Australian Institute of Aboriginal and Torres Strait Islander Studies
AMA	Australian Medical Association
ATO	Australian Taxation Office
CATSI Act	<i>Corporations (Aboriginal and Torres Strait Islander) Act 2006</i>
CERD	International Convention on the Elimination of All Forms of Racial Discrimination
CGT	Capital gains tax
CME	Chamber of Minerals and Energy of Western Australia
DGR	Deductible gift recipient
ICAA	Institute of Chartered Accountants in Australia
ICESCR	International Covenant on Economic, Social and Cultural Rights
ILUA	Indigenous land use agreement
ISCA	Independent Schools Council of Australia
MBS	Medicare Benefits Schedule
MCA	Minerals Council of Australia
MIT	Managed investment trusts

MRRT	Minerals Resource Rent Tax
NANE	Non-assessable non-exempt
NMETO	Net Medical Expenses Tax Offset
NNTC	National Native Title Council
NTSV	Native Title Services Victoria
PBS	Pharmaceutical Benefits Scheme
PCA	Property Council of Australia
TLAB No.6	Tax Laws Amendment (2012 Measures No. 6) Bill 2012
UNHCR	United Nations High Commissioner for Refugees
UNSW	University of New South Wales
YMAC	Yamatji Marlpa Aboriginal Corporation



Recommendation

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Introduction

Issues in the Bill

Recommendation 1

The House of Representatives pass the Tax Laws Amendment (2012 Measures No. 6) Bill 2012 as proposed.

Coalition Members' Dissenting Report

Appendix A –Submissions and exhibits

Appendix B – Hearing and witnesses

Appendix C – List of reports

