



Parliament of the Commonwealth of Australia

Joint Committee of  
Public Accounts and Audit

# **Report 364**

**An Advisory Report on the  
Delayed Provisions of the Tax Law  
Improvement Bill (No. 2) 1997**

December 1998

The Parliament of the Commonwealth of Australia

Joint Committee of Public Accounts and Audit

## **REPORT 364**

**An Advisory Report on the  
Delayed Provisions of the  
Tax Law Improvement Bill (No. 2) 1997**

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## CHAIRMAN'S FOREWORD

This report is the work of the Joint Committee of Public Accounts and Audit established during the 38th Parliament. The current Committee has considered and given its approval to the report, which was prepared by the former Committee on the basis of evidence it sought and received.

The report presents the findings of the review of two Divisions and a Subdivision of the Tax Law Improvement Bill (No. 2) 1997 (the Bill). The Committee had recommended in an earlier review that these provisions be delayed because they had not been released sufficiently early to allow adequate scrutiny by the Committee. This report completes the Committee's review commenced in *Report 356*.

The provisions concern three areas of capital gains tax (CGT) legislation—exemption for the disposal of small business assets where the proceeds are used for retirement; CGT roll-over relief where a small business disposes of an 'active asset' and acquires another active asset; and the shifting of value between companies under common ownership.

The Committee had recommended in its previous report on the Bill that any unintended consequences of the legislation be corrected retrospectively. The Committee has followed up this issue, due to concerns raised by stakeholders, by recommending the creation of a publicly available register of unintended consequences. The register would include information about the impact of an unintended consequence and any steps being taking to rectify the matter.

The Committee has also discussed various policy and technical issues arising from the provisions and has made a number of recommendations.

The Committee has agreed with concerns raised by stakeholders about the breadth of clauses which affect discretionary trusts and has recommended that the provisions be re-examined to determine whether their scope can be made more appropriate and potential compliance difficulties be overcome.

The Committee has also supported a proposal from the Tax Law Improvement Project (TLIP) concerning a minor policy issue arising from proposed Division 123. TLIP proposes to alter the rollover relief provisions to overcome possible taxpayer confusion about the different treatment of depreciable and other assets.

The Committee considers TLIP's proposal to be within its mandate as the operation of the law would be simplified, and compliance and administration costs would be reduced. TLIP has advised the proposal is likely to have minimal impact on the revenue.

Bob Charles MP  
Chairman

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1 Discharged 10 December 1998

2 Appointed 10 December 1998

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**MEMBERSHIP OF THE SECTIONAL  
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Hon D Beddall, MP

Senator J Watson

Inquiry Staff:

Dr J Carter  
Mr G Martin  
Ms T Gray

## DUTIES OF THE COMMITTEE

The Joint Committee of Public Accounts and Audit is a statutory committee of the Australian Parliament, established by the *Public Accounts and Audit Committee Act 1951*.

Section 8(1) of the Act describes the Committee's duties as being to:

- (a) examine the accounts of the receipts and expenditure of the Commonwealth, including the financial statements given to the Auditor-General under subsections 49(1) and 55(2) of the *Financial Management and Accountability Act 1997*;
- (b) examine the financial affairs of authorities of the Commonwealth to which this Act applies and of intergovernmental bodies to which this Act applies;
- (c) examine all reports of the Auditor-General (including reports of the results of performance audits) that are tabled in each House of the Parliament;
- (d) report to both Houses of the Parliament, with any comment it thinks fit, on any items or matters in those accounts, statements and reports, or any circumstances connected with them, that the Committee thinks should be drawn to the attention of the Parliament;
- (e) report to both Houses of the Parliament any alteration that the Committee thinks desirable in:
  - (i) the form of the public accounts or in the method of keeping them; or
  - (ii) the mode of receipt, control, issue or payment of public moneys;
- (f) inquire into any question connected with the public accounts which is referred to the Committee by either House of the Parliament, and to report to that House on that question;
- (g) consider:
  - (i) the operations of the Audit Office;
  - (ii) the resources of the Audit Office, including funding, staff and information technology;
  - (iii) reports of the Independent Auditor on operations of the Audit Office;

- (h) report to both Houses of the Parliament on any matter arising out of the Committee's consideration of the matters listed in paragraph (g), or on any other matter relating to the Auditor-General's functions and powers, that the Committee considers should be drawn to the attention of the Parliament;
- (i) report to both Houses of the Parliament on the performance of the Audit Office at any time;
- (j) consider draft estimates for the Audit Office submitted under section 53 of the *Auditor-General Act 1997*;
- (k) consider the level of fees determined by the Auditor-General under subsection 14(1) of the *Auditor-General Act 1997*;
- (l) make recommendations to both Houses of Parliament, and to the Minister who administers the *Auditor-General Act 1997*, on draft estimates referred to in paragraph (j);
- (m) determine the audit priorities of the Parliament and to advise the Auditor-General of those priorities;
- (n) determine the audit priorities of the Parliament for audits of the Audit Office and to advise the Independent Auditor of those priorities; and
- (o) undertake any other duties given to the Committee by this Act, by any other law or by Joint Standing Orders approved by both Houses of the Parliament

## TERMS OF REFERENCE

On 27 November 1997 the House of Representatives resolved:

1.1 That:

- (a) the Tax Law Improvement Bill (No.2) 1997 be referred to the Joint Committee of Public Accounts and Audit for consideration and an advisory report to the House by 12 March 1998; and
- (b) the terms of this resolution, so far as they are inconsistent with the standing and sessional orders, have effect notwithstanding anything contained in the standing and sessional orders.

1.2 That a message be sent to the Senate acquainting it of this reference to the Committee.

In the Committee's advisory report—*Report 356*—it was recommended that proposed Subdivision 118-F and Divisions 123 and 138 be delayed pending review by the Committee.

## **LIST OF ABBREVIATIONS**

<b>AGPS</b>	<b>Australian Government Publishing Service</b>
<b>CGT</b>	<b>Capital Gains Tax</b>
<b>JCPA</b>	<b>Joint Committee of Public Accounts</b>
<b>JCPAA</b>	<b>Joint Committee of Public Accounts and Audit</b>
<b>TIA</b>	<b>Taxation Institute of Australia</b>
<b>TLIP</b>	<b>Tax Law Improvement Project</b>