

THE CONTEXT OF THE COMMITTEE'S INQUIRY

Introduction

1.1 In 1993, the Tax Law Improvement Project (TLIP) was established to rewrite the *Income Tax Assessment Act 1936* (the 1936 Act). In undertaking this task, TLIP's mandate is to rewrite the taxation law in a clearer form. While there is limited scope to change underlying taxation policy, minor changes to policy have been made where the law is ambiguous and can be clarified, where compliance costs can be reduced, and where there are no apparent losers as a result of the changes.¹

1.2 Since 1993, three tranches of legislation have progressively been introduced to replace parts of the 1936 Act. The first two tranches of legislation were reviewed by the then Joint Committee of Public Accounts (JCPA), which tabled its findings in *Report 345* on 22 August 1996,² and *Report 348* on 6 March 1997.³

1.3 The most recent tranche of legislation was the Tax Law Improvement Bill (No. 2) 1997 (the Bill) which contained the important capital gains tax (CGT) provisions. The Bill was introduced into the House of Representatives on 27 November 1997 and subsequently referred to the JCPA for consideration.⁴

1 TLIP, *Transcript*, pp. 12, 37 (28 January 1998).

2 JCPA, *Report 345, An Advisory Report on the Income Tax Assessment Bill 1996, the Income Tax (Transitional Provisions) Bill 1996 and the Income Tax (Consequential Amendments) Bill 1996*, AGPS, Canberra, 1996.

3 JCPA, *Report 348, An Advisory Report on the Tax Law Improvement Bill 1996*, AGPS, Canberra, 1997.

4 *Votes and Proceedings*, No. 133, 27 November 1997, p. 2534.

1.4 The Joint Committee of Public Accounts and Audit⁵ reviewed the Bill and tabled its advisory report on 12 March 1998.⁶ In that report the Committee noted it had been unable to review three sets of provisions because they had not been released before the Committee's reporting deadline. These were:

- Subdivision 118-F—this Subdivision contains provisions dealing with the CGT exemption for the disposal of small business assets where the proceeds are used for retirement;
- Division 123—this Division contains CGT roll-over relief provisions where a small business disposes of an 'active asset' and acquires another active asset; and
- Division 138—this Division deals with the shifting of value between companies under common ownership.

1.5 The Committee recommended in its report that the three sets of provisions be withdrawn from the Bill pending review by the Committee.⁷ On 1 April 1998 the Government amended the Bill in the House of Representatives to give effect to the Committee's recommendation.⁸ The Bill, renamed the Tax Law Improvement Bill (No. 1) 1998 when introduced into the Senate, was passed on 28 May 1998.⁹

1.6 On 1 April 1998, the Committee received for consideration the proposed clauses for the Subdivision and two Divisions. After the Committee's review it is expected that

5 On 1 January 1998, following amendment to the Public Accounts Committee Act 1951, the JCPA became the Joint Committee of Public Accounts and Audit and subsequently resolved to resume the review.

6 JCPAA, *Report 356, An Advisory Report on the Tax Law Improvement Bill (No. 2) 1997*, AGPS, Canberra, 1998.

7 JCPAA, *Report 356*, Recommendation 3, p. 17.

8 *Votes and Proceedings*, No. 1152, 1 April 1998, p. 2907.

9 *Senate Journals*, No. 180, p. 3871.

final versions of the Subdivision and Divisions will be incorporated into the 1936 Act by means of an income tax amendment bill. In the meantime, existing provisions in the 1936 Act relating to the areas covered by the Subdivision and Divisions remain in effect.

Conduct of the review

1.7 In reopening its review, the Committee decided not to revisit issues already discussed in its previous advisory report on the Bill.

1.8 Following receipt of copies of the Subdivision, the two Divisions, and associated Explanatory Memorandum, the Committee invited submissions from those who had provided evidence to the Committee's previous inquiry on the Bill.

1.9 The submissions that were received and the subsequent response from TLIP were then distributed to stakeholders and further comment sought.

1.10 A list of submissions can be found at Appendix I.

Structure of the Report

1.11 In Chapter 2, the Committee discusses issues which are of a general nature or which are policy issues outside TLIP's mandate. Technical issues and minor policy issues within TLIP's mandate are discussed in Chapter 3.

1.12 While this report can be read in isolation, the Committee recommends that it be read in conjunction with *Report 356* as this will permit a more comprehensive understanding of the Committee's opinion on the Bill as a whole.

1.13 Information about the Committee and copies of its recent reports can be found on the Committee's internet web site at <http://www.aph.gov.au/house/committee/jpaa/>