

CHAPTER 1

INTRODUCTION

Background

1.1 The Tax Laws Amendment (Loss Recoupment Rules and Other Measures) Bill 2005 was introduced into the Senate on 12 October 2005 following its passage through the House of Representatives on the same day.

1.2 On 12 October 2005, on the recommendation of the Senate Standing Committee for the Selection of Bills, the Senate referred the provisions of the bill to the Economics Legislation Committee for inquiry and report by 8 November 2005.

1.3 This bill is an omnibus bill which makes changes to the taxation and superannuation system.

1.4 Schedule 1 amends the loss recoupment rules for companies by:

- introducing a new modified continuity of ownership test (COT) to replace the existing modified COT in Division 166 of the *Income Tax Assessment Act 1997*;
- removing the same business test (SBT) for companies whose total income is more than \$100 million in the year of recoupment; and
- removing certain anomalies and clarifying some aspects of the existing law.

1.5 Schedule 2 represents the sixth instalment of the Government's reform of Australia's international tax arrangements. It replaces the existing foreign dividend account provisions. The changes provide tax relief for conduit foreign income, which generally is foreign income received by a foreign resident through an Australian corporate tax entity. These rules will allow Australian companies that receive foreign income on which no Australian tax is payable to pay dividends to foreign shareholders that are also free of Australian withholding tax.

1.6 Other schedules in the bill make amendments to:

- deny tax deductions for illegal activity;
- include copyright in a film, in the general effective life depreciation of the uniform capital allowances provisions;
- allow employee share scheme (ESS) participants to treat the new shares or rights they are issued because of a corporate restructure as a continuation of their old shares or rights;

- allow the offsetting of a late payment of superannuation guarantee contributions against an employer's superannuation guarantee charge; and
- clarify that mandatory employer contributions under the superannuation guarantee arrangements are payable on wages or salary paid in a quarter following the termination of an employment relationship.

Conduct of the inquiry

1.7 The Committee posted details of the inquiry on its internet site. In addition, the Committee contacted the Department of the Treasury and a number of other organisations advising them of the inquiry and inviting them to make submissions.

1.8 The Committee received five submissions. A list of those who made submissions is at Appendix 1.

1.9 The Committee held a public hearing at Parliament House in Sydney on Friday, 28 October 2005. Witnesses who presented evidence at this hearing are listed in Appendix 2.

1.10 The Hansard of the Committee's hearing, copies of all submissions and information provided on request to the Committee are tabled with this report. These documents, plus the Committee's report, are also available on the Committee's web site at www.aph.gov.au/senate/committee/economics_ctte/recoupment/index.htm.

1.11 The Committee thanks those who participated in this inquiry.