

The Senate

Standing Committee on Economics

Tax Laws Amendment (2009 Measures
No. 2) Bill 2009 [Provisions]

May 2009

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Senate Standing Committee on Economics

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Introduction

Background

1.1 The *Tax Laws Amendment (2009 Measures No. 2) Bill 2009* was introduced to the House of Representatives on 19 March 2009. On the same day, on the recommendation of the Senate Selection of Bills Committee, the bill was referred to the Senate Economics Committee for inquiry and report by 7 May 2009.¹

Purpose of the bill

1.2 The bill has eight unrelated schedules, described in the following chapters, referring to:

Schedule 1—Application of the income tax law to financial claims scheme entitlements;

Schedule 2—Increased access to the small business capital gains tax concessions;

Schedule 3—Tax benefits and capital gains tax;

Schedule 4—National Urban Water and Desalination Plan—urban water tax offset;

Schedule 5—Deductible gift recipients;

Schedule 6—Australian Business Register;

Schedule 7—Removing the *Greenhouse Challenge Plus Program* condition for fuel tax credits; and

Schedule 8—Tax exemption for certain grants to businesses affected by the Victorian bushfires.

1.3 The inquiry is to 'ensure that the aims stated in the legislation will be met and it will have no adverse impact on the Australian population'.²

Conduct of the inquiry

1.4 The committee advertised the inquiry on its website and *The Australian* on 25 March 2009. The committee wrote to several government departments, inviting them or related agencies to make a submission. A number of other organisations, commentators, academics and stakeholders were also contacted and invited to make submissions to the inquiry. The committee received no submissions to this inquiry.

Recommendation 1

1.5 The committee recommends that the Senate pass the bill.

1 Selection of Bills Committee, Report No. 4 of 2009, Appendix 9.

2 Selection of Bills Committee, Report No. 4 of 2009, Appendix 9.

Schedule 1

Application of the income tax law to financial claims scheme entitlements

Background

2.1 The *Financial System Legislation Amendment (Financial Claims Scheme and Other Measures) Act 2008* amended the *Banking Act 1959* and the *Insurance Act 1973* to establish a financial claims scheme (FCS). The scheme allows the Australian Prudential Regulation Authority (APRA) to pay depositors or policy holders in failed authorised deposit-taking institutions (ADIs) some part of their deposit, and to have that part of the depositor's right to recover their deposit transferred to APRA.¹ The remainder of the funds becomes available to the depositor at the liquidation of the ADI. Investment products such as superannuation, life insurance and managed funds are not covered by the scheme to avoid an undue 'incentive for consumers to pursue higher returns through risk-taking'.²

Purpose

2.2 The current legislation provides that if interest (or gain) has been paid to the depositor, he or she is assessable on that interest. However, if the interest has accrued but not yet been paid or credited to the depositor, 'the existing law may not treat the payments [by APRA]...in the same way as interest payment by the ADI'.³

2.3 The changes to the legislation ensure that payments made by APRA under the scheme are treated in a similar manner to those made by an ADI. The payments cover capital gains tax (CGT), farm management deposits (FMDs), retirement savings accounts (RSA), first home saver accounts (FHSA), reporting and withholding obligations.⁴

Farm management deposits

2.4 A farm management deposit (FMD) is 'a tax-linked financial risk management tool for eligible primary producers...to set aside income in profitable years for subsequent withdrawal in low-income years'. The proposed amendments to the legislation provide that the establishment of a new FMD by APRA or a liquidator as a result of a failed ADI is treated as a transfer of the old FMD for tax purposes. This

1 Explanatory Memorandum, p. 9.

2 Treasurer, The Hon Wayne Swan MP, 'New protections for depositors and policyholders', Media release 061, 2 June 2008.

3 Explanatory Memorandum, p. 10.

4 Explanatory Memorandum, p. 3.

ensures that FMD holders will have no adverse taxation implications where FMDs are held with failed ADIs.⁵

Retirement savings accounts

2.5 Retirement savings accounts (RSAs) are similar to superannuation funds and are treated comparably for income tax and superannuation purposes. The new legislation enables APRA to pay retirement payments into an RSA established in a new ADI, with payments treated for tax purposes as if they were a roll-over superannuation benefit. A payment directly to individuals is not considered appropriate because benefits in an RSA are generally preserved until retirement.⁶

First Home Saver Accounts

2.6 The First Home Saver Account (FHSA) initiative provides first home buyers a government contribution to their savings.⁷ The proposed legislation will treat a payment from the scheme into a new FHSA as a transfer from one provider to another, to prevent the transfer from being eligible for the government contribution. Similarly to RSAs, a direct payment to individuals is considered inappropriate because 'there are restrictions on when an individual can get their money out of an FHSA'. The proposed amendments require the account holder to notify the new FHSA provider if they have become ineligible for the benefit in the period between the declaration of an ADI and the opening of a new FHSA.⁸

Reporting obligations

2.7 With regard to reporting obligations, currently investment bodies, excluding APRA, are required to provide the Commissioner of Taxation a written report relating to investments with the body. The proposed legislation imposes a similar requirement on APRA relating to the amounts paid under the scheme, and a requirement to provide an annual statement to account holders. If no payments are made, there is no requirement for a statement or a report. The proposed amendments allow APRA to require certain entities to provide information relevant to the annual statements or reports.⁹

5 Explanatory Memorandum, pp. 11–12, 14.

6 Explanatory Memorandum, p. 12, 27.

7 Treasury, First Home Saver Accounts, http://www.homesaver.treasury.gov.au/content/fact_sheet/Account_Holders.asp (accessed 2 April 2009).

8 Explanatory Memorandum, pp. 12–13, 28.

9 Explanatory Memorandum, pp. 16, 29–32.

Withholding obligations

2.8 In relation to withholding obligations, the proposed legislation ensures that the pay-as-you-go (PAYG) withholding provisions apply to payments under the scheme. That is, payments made by APRA to meet an entitlement under the scheme are treated as if they were made by an ADI. The provisions include the requirement that APRA withhold amounts and report and remit them to the Commissioner of Taxation. This amendment 'will help to ensure that taxpayers do not have unanticipated tax liabilities on assessment'.¹⁰

Financial impact

2.9 The financial impact is expected to be 'negligible' because of the tax outcomes being of equal value to the payments that would have been made by the financial or insurance institution. The compliance cost is expected to be low.¹¹

10 Explanatory Memorandum, pp. 16, 33–34.

11 Explanatory Memorandum, p. 3.

Schedule 2

Increased access to the small business capital gains tax concessions

Background

3.1 'The small business capital gains tax (CGT) concessions 'were introduced to provide small business operators with access to additional funds for retirement or to grow their businesses'. The concessions include a 15-year exemption; retirement exemption; active assets 50 per cent reduction and small business roll-over.¹

3.2 The *Tax Laws Amendment (Small Business) Act 2007* introduced a single definition of a small business entity to 'simplify and standardise the various small business concessions'. Generally, a small business has to carry on a business and have a yearly aggregated turnover of less than \$2 million. For entities that do not meet these criteria, the Act 'retained the existing alternative eligibility criteria for accessing the small business CGT concessions...but increased the maximum net asset value threshold from \$5 million to \$6 million'.²

3.3 However, the changes affected how the small business entity test and the \$6 million net asset value test treated businesses in a situation where one entity owned a CGT asset and did not carry on a business but another entity connected to it used the asset (this is called a 'passive asset structure'). Under the current law, the owner of the asset can access the concessions via the net asset value test in some circumstances but not via the small business entity test because it does not carry on a business.³

Purpose

3.4 The proposed amendments of this schedule increase access to the small business CGT concessions for owners of a CGT asset that is used in a business by an affiliate or a connected entity and 'for partners owning a CGT asset used in the partnership business'. It also makes minor amendments 'to clarify and refine elements of the small business CGT concessions'. The changes are outlined in more detail below.

Entities holding passive assets

3.5 The amendments proposed in this schedule enable the owner of the asset to access the small business CGT concessions via the small business entity test under

1 Explanatory Memorandum, p. 37.

2 Explanatory Memorandum, p. 37.

3 Explanatory Memorandum, p. 38.

certain circumstances.⁴ These include that the entity connected to the asset owner and using the asset is a small business entity and its turnover is under \$2 million.⁵

Partners in a partnership

3.6 Currently, a partner can access the small business CGT concessions via the small business entity test 'only if the partnership is a small business entity and the relevant CGT asset is "an asset of the partnership"'. If an individual partner owns an asset directly and makes it available for general use in the partnership, the owner is not able to access concessions via the small business entity test.⁶ The proposed amendments will provide access to the concessions via the small business entity test.⁷

3.7 Amendments also provide that 'a partner in a partnership could not in their capacity as a partner be a small business entity'. This applies for the small business concessions generally, not just for small business CGT concessions. The legislation will apply retrospectively 'as it aligns the legislation with administrative practice'.⁸

Spouses and children as affiliates

3.8 For the purposes of determining whether the individual owning a CGT asset is eligible for the small business CGT concessions, the current legislation provides an active asset test. A CGT asset is considered active if it is owned by one entity but used in another 'directly carried on by their spouse or child (under 18 years of age)', or if it was used in an affiliate that was operated by an entity owned by the spouse/child. However, 'it may be difficult in practice to establish' the relationship between the two entities.⁹

3.9 Therefore, the proposed amendment treats a spouse or a child as an affiliate, increasing 'access to the concessions...in a wider range of situations'.¹⁰ However, 'for the purposes of the maximum net asset value test, the new rule also reduces access to the concessions by potentially bringing in more affiliates and more entities'.¹¹

4 Explanatory Memorandum, p. 38.

5 Explanatory Memorandum, p. 42.

6 Explanatory Memorandum, p. 38. The partner may be able to access concessions via the maximum net asset value test.

7 Explanatory Memorandum, p. 38.

8 Explanatory Memorandum, p. 69.

9 Explanatory Memorandum, p. 47. The asset is treated as passive if the taxpayer's spouse owns an entity that uses the asset in its business.

10 Explanatory Memorandum, p. 48.

11 Explanatory Memorandum, p. 48.

3.10 The changes apply 'in relation to any capital gain from any CGT asset owned by the individual, an affiliate...or an entity connected with the individual'.¹² However, 'the rule does not apply for the purposes of determining eligibility for the other small business concessions such as the concessional rules for fringe benefits tax and pay as you go instalments'.¹³

Retirement exemption and proceeds received in instalments

3.11 The proposed amendments insert a rule applying the 'retirement exemption to capital proceeds received in instalments by individuals' and removes 'the duplicate provision for receipt of capital proceeds in instalments by companies and trusts'. This is to correct the 'unintended effect' of Schedule 2 to the *Superannuation Legislation Amendment (Simplification) Act 2007*, that removed the rule 'relating to the receipt of capital proceeds in instalments for individuals and introduced a second rule for capital proceeds received in instalments by companies and trusts'.¹⁴

Retirement exemption—CGT events J5 and J6

3.12 The proposed amendments fulfil the intended effect of the *Tax Laws Amendment (2006 Measures No. 7) Act 2007* in relation to the retirement exemption. The original intention was that the taxpayer could choose to roll over his or her business before acquiring a replacement asset or making an improvement to an existing asset.¹⁵

3.13 However, at the moment the exemption is not available because the capital gains from J5 and J6 events cannot satisfy some of the basic conditions outlined in the legislation, including an active asset test and the requirement for a CGT event to take place in an income year. The CGT event J5 happens if the replacement or improvement of an asset does not take place within a two-year replacement asset period; J6 happens if the cost of a new asset is less than the amount of the capital gain originally deferred. The amendments ensure that if the gain arises from CGT events J5 and J6, the small business retirement is exempted from satisfying the basic conditions.¹⁶

3.14 Similarly, while the intention of the Act was to allow indirect ownership to qualify an individual as a CGT concession stakeholder, the payment requirement was not updated to allow indirect payments. The proposed amendments remove that discrepancy.¹⁷

12 Explanatory Memorandum, p. 51.

13 Explanatory Memorandum, p. 52.

14 Explanatory Memorandum, p. 65.

15 Explanatory Memorandum, p. 66.

16 Explanatory Memorandum, p. 66.

17 Explanatory Memorandum, p. 67.

3.15 In addition, the proposed legislation excludes small business exemption payments from the 'deemed dividend provisions'—excessive payments by a company to shareholders, directors and associates or tax-free distributions of profits to shareholders or their associates in the form of payments, loans or forgiven debts. The current legislation is 'counter to the policy objective of the exemption, which is to allow small business operators to sell their small business assets and provide for their retirement as their business and its assets may be their sole retirement asset'. The amendments reduce uncertainty and complexity and 'remove any potential conflict between the amendments that treat indirect retirement exemption payments between interposed entities as if they were neither a dividend nor a frankable distribution'.¹⁸

Other amendments

3.16 The amendments also address situations where an owner of a CGT asset is a partner in more than one partnership and makes their CGT asset available for use in the business of these partnerships. Current legislation does not require partnerships to be connected with the asset owner to access the CGT concessions, making it easier for each partnership to qualify for the small business CGT concessions through either the small business entity test or the maximum net asset value test. The amendments correct this situation by treating each partnership as being connected with the asset owner. As a result, each partnership's annual turnover is required to include the turnover of the other partnership(s).¹⁹

3.17 The amendments provide access to the small business CGT concessions to an asset owner 'where the CGT event occurs in a year that the business is being wound up' as opposed to the year when the business ceased operating. This is 'only if the asset had been used, held ready for use, or was inherently connected with the business in the income year it ceased to operate'.²⁰

3.18 Another amendment provides that the calculation of the net asset value takes into account the 'liabilities relating to disregarded interests in entities connected with the taxpayer or the taxpayer's affiliates'.²¹

3.19 The schedule amends the active asset test to 'ensure that all the uses of an asset [except personal use by the taxpayer or an affiliate] are considered in determining whether it is an active asset for the purpose of the small business CGT concessions'. In order for a taxpayer to qualify for GCT concessions, the CGT asset has to be active. Assets whose main use is to derive rent are not considered as active assets. The focus shifts from the use of an asset in the business to the main use of the asset by the taxpayer. The amendments adopt an attribution approach, treating 'the use

18 Explanatory Memorandum, p. 68.

19 Explanatory Memorandum, p. 54.

20 Explanatory Memorandum, p. 56.

21 Explanatory Memorandum, p. 60.

of the asset by the affiliate or the entity connected with the taxpayer as though it were the use of the taxpayer'.²²

3.20 In relation to joint tenants and testamentary trusts, the proposed amendments ensure that the surviving tenant(s) have access to the small business CGT concessions for capital gains relating to assets acquired on the death of a joint tenant and that there is an 'automatic transfer of the asset to the surviving tenant [when he or she] does not continue with the business'.²³

Financial impact

3.21 The measure is expected to have a minimal to small cost to revenue. The compliance cost impact is expected to be low.²⁴

3.22 The Explanatory Memorandum stated that the amendments have been 'actively sought by industry' and will generally be beneficial by increasing access to the small business CGT concessions. However, it also noted that some taxpayers may be disadvantaged by the introduction of the new affiliate rule treating an individual's spouse or child as an affiliate in particular circumstances.²⁵

3.23 The amendments apply to CGT events from the 2007–08 income year onwards.²⁶

22 Explanatory Memorandum, pp. 60–61.

23 Explanatory Memorandum, p. 64.

24 Explanatory Memorandum, p. 4.

25 Explanatory Memorandum, pp. 69–70.

26 Explanatory Memorandum, pp. 3–4.

Schedule 3

Tax benefits and capital gains tax

Purpose

4.1 Schedule 3 amends the *Income Tax Assessment Act 1997* to provide a general exemption from capital gains tax (CGT) 'for capital gains arising from a right or entitlement to a tax offset, deduction or similar benefit'.¹

4.2 The Hon Mr Chris Bowen, Assistant Treasurer, noted in his second reading speech:

A highly technical interpretation of the income tax law may result in a capital gain or capital loss arising to taxpayers who have a right to receive an urban water tax offset on the satisfaction of the right. This amendment will put beyond doubt that a capital gain or capital loss would not arise for taxpayers in such circumstances, or in other circumstances where taxpayers have a right or entitlement to a tax offset, deduction or other taxation benefit.²

4.3 The treatment extends to taxpayers 'who have the right to receive other types of tax offsets, deductions or other taxation benefits', for example the right to receive a reduction in land tax.³

4.4 The measure applies to CGT events in the 2009–10 income year and onwards.⁴

Financial impact

4.5 There should be no financial impact or compliance costs.⁵

1 Explanatory Memorandum, p. 4.

2 The Hon Chris Bowen, Assistant Treasurer, Second reading speech, *House of Representatives Hansard*, 19 March 2009, p. 16.

3 Explanatory Memorandum, p. 72.

4 Explanatory Memorandum, p. 4.

5 Explanatory Memorandum, p. 4.

Schedule 4

National Urban Water and Desalination Plan— urban water tax offset

Background

5.1 Schedule 4 relates to the government's \$1 billion *National Urban Water and Desalination Plan*, announced in the 2008 Budget. Under this plan, the government will fund large infrastructure projects to assist cities and towns meet future water demand. The plan is part of the government's *Water for the Future* plan, a ten-year, \$12.9 billion initiative to secure the long-term water supply for Australia.¹ The security of water supplies 'will be achieved by supporting major desalination, water recycling and stormwater harvesting projects'.²

Purpose

5.2 The amendments to the *Income Tax Assessment Act 1997* (ITAA) 'provide a general exemption from capital gains tax for capital gains arising from a right or entitlement to a tax offset, deduction or similar benefit'.³ Amendments are made to 'provide a refundable tax offset in relation to certain projects approved under the National Urban Water and Desalination Plan' for the period between and including income years 2008–09 and 2012–13.⁴

5.3 The Hon Chris Bowen MP, Assistant Treasurer, explained:

Under the plan, eligible projects may receive assistance at a rate of 10 per cent of eligible capital costs, up to a maximum of \$100 million per project.

This schedule implements the refundable tax offset component of the plan and delivers on the government's election commitment.⁵

5.4 Financial assistance will be provided as refundable tax offsets for private sector applicants, or as grants for applicants outside the tax system such as water utilities and governments. In order to be entitled to a tax offset, the company is required to have a valid certificate for the project, issued by the Water Minister for

1 The Hon Wayne Swan MP, Treasurer, and Senator The Hon Penny Wong, Minister for Climate Change and Water, '\$1 billion to help secure urban water', Media release, PW 251/08, 7 December 2008.

2 Explanatory Memorandum, p. 73.

3 Explanatory Memorandum, p. 79.

4 Explanatory Memorandum, p. 4.

5 The Hon Chris Bowen, Assistant Treasurer, Second reading speech, *House of Representatives Hansard*, 19 March 2009, p. 16.

one income year at a time, and must meet project milestones. A certificate may be revoked, and the Water Minister's decisions may be reviewed by applying to the Administrative Appeals Tribunal.⁶

5.5 The plan finishes in 2013–14, and the provisions are repealed with effect from 1 July 2014.⁷

5.6 The schedule makes some consequential amendments to the ITAA 1997.⁸

5.7 The proposal was announced in the 2008 Budget.⁹

Financial impact

5.8 The financial implications of the proposal are as follows:

2008–09	2009–10	2010–11	2011–12
-\$14m	-\$129m	-\$195m	-\$315m

5.9 The compliance cost is expected to be moderate.

6 Explanatory Memorandum, pp. 74, 78.

7 Explanatory Memorandum, p. 78.

8 Explanatory Memorandum, p. 79.

9 Explanatory Memorandum, p. 4.

Schedule 5

Deductible gift recipients

Background

6.1 Tax deductions are provided to donors to organisations endorsed as deductible gift recipients (DGRs) under certain conditions. Gifts of \$2 or more are tax deductible.¹

6.2 To become a DGR, an organisation must fall within one of the general categories outlined or be listed by name in the legislation. The DRG status is said to assist eligible organisations 'to attract public support for their activities'.²

Purpose

6.3 The amendments to the *Income Tax Assessment Act 1997* update the DGR list to include four new entities, and extend the DRG status of three organisations. The four new DGRs are:

- Australasian College of Emergency Medicine
- ACT Region Crime Stoppers Limited
- The Grattan Institute, and
- Parliament of the World's Religions Melbourne 2009 Limited.

6.4 The three DGRs whose status periods are extended are:

- Bunbury Diocese Cathedral Rebuilding Fund
- St George's Cathedral Restoration Fund, and
- Yachad Accelerated Learning Project.³

Financial impact

6.5 The financial impact is estimated at \$7 million over four years and the compliance cost is estimated to be negligible.⁴

1 Explanatory Memorandum, p. 81.

2 Explanatory Memorandum, p. 81.

3 Explanatory Memorandum, p. 5.

4 Explanatory Memorandum, p. 6.

Schedule 6

Australian Business Register

Background

7.1 Schedule 6 relates to the government's *Standard Business Reporting Program*, a multi-agency initiative aimed at simplifying business-to-government reporting. Government agencies participating in the program include the Treasury, Australian Bureau of Statistics, APRA, Australian Securities and Investments Commission, Australian Taxation Office and all state and territory government revenue offices.¹ The programme is estimated to be available to businesses from 1 July 2010 provided a number of key dependencies such as information technology are in place.²

7.2 The Australian Business Register (ABR) was established to reduce administrative costs for small business by 'limiting the number of times a business would be asked for similar information by different [government] agencies'.³ However, currently online communication with various government agencies requires businesses to undergo multiple identity establishment processes.⁴

7.3 Businesses register with the ABR to be able to identify themselves reliably in their dealings with government departments.⁵ However, due to there being 'no provision to enable the Registrar to update' business details either from publicly available information or from its own resources, it is difficult for the Registrar to achieve and maintain an accurate register.⁶

7.4 Despite these problems, because of the ABR's capacity to 'establish the identity of a business person based on their tax file number' and link a person to a business, it is perceived to be in a position to facilitate business-to-government online interaction.⁷

1 Australian Government, Standard Business Reporting, http://www.sbr.gov.au/content/standard_business_reporting_program.htm (accessed 24 March 2009).

2 Explanatory Memorandum, pp. 95–96.

3 Explanatory Memorandum, p. 86.

4 Explanatory Memorandum, p. 86.

5 Explanatory Memorandum, p. 86.

6 Explanatory Memorandum, p. 86.

7 Explanatory Memorandum, p. 86.

Purpose

7.5 The proposed amendments introduce a new measure. Part 1 of the schedule amends the *A New Tax System (Australian Business Number) Act 1999* to 'improve the integrity and efficiency of the ABR'.⁸ These include the right to use the approved form provisions for a range of purposes, including provision of certain information, notification of changes and cancellation of an Australian Business Number. The Registrar would also be able to update details on the ABR.⁹

7.6 Part 2 of the schedule provides for the Registrar to act as the Multi-agency Registration Authority to facilitate electronic dealings by businesses, and for the Registrar to 'create and maintain a register of representatives of businesses' for this purpose. Enterprises are able to nominate individuals to be registered as their representatives. The legislation contains provisions for appeal rights against the Registrar's decisions.¹⁰

7.7 The proposed legislation makes consequential amendments to two other tax Acts clarifying the existing law: *Product Grants and Benefits Administration Act 2000* and *Taxation Administration Act 1953*.

Financial impact

7.8 Nil. Compliance cost impact is minimal and 'far outweighed by the substantial reduction in costs that benefit businesses in their reporting to governments'.¹¹

Committee view

7.9 The committee supports the idea to streamline the interaction between the private sector and the government and considers that the Registrar of the ABR is in a position to take on these added responsibilities.

8 Explanatory Memorandum, p. 85.

9 Explanatory Memorandum, pp. 86–87.

10 Explanatory Memorandum, p. 92.

11 Explanatory Memorandum, p. 7.

Schedule 7

Removing the Greenhouse Challenge Plus Program condition for fuel tax credits

Background

8.1 The government's *Greenhouse Challenge Plus Program* (GCPP) 'enables Australian companies to form working partnerships with the Australian Government to improve energy efficiency and reduce greenhouse gas emissions'.¹ It aims to:

- reduce greenhouse gas emissions (including promotion of awareness of greenhouse gas abatement opportunities in industry);
- accelerate the uptake of energy efficiency;
- integrate greenhouse issues into business decision-making; and
- provide more consistent reporting of greenhouse gas emissions levels.²

8.2 Fuel tax credits 'provide a credit for fuel tax (excise duty) that is included in the price of fuel. Business entities claim [them] on their business activity statement in the same way they claim goods and services tax (GST) input tax credits'. Currently, in order for a business to claim more than \$3 million of fuel tax credits, it must be a member of the GCPP.³ The GCPP was originally included in the Act 'so that large fuel users would monitor and take measures to reduce their carbon emissions'. However, this outcome is now believed to be 'better achieved through the government's Carbon Pollution Reduction Scheme', and the GCPP will cease after 30 June 2009.⁴

Purpose

8.3 This schedule amends the *Fuel Tax Act 2006* to remove the requirement for a business to be a member of the GCPP.⁵

1 Department of the Environment, Water, Heritage and the Arts, Greenhouse Challenge Plus, <http://www.environment.gov.au/settlements/challenge/index.html> (accessed 26 March 2009).

2 Department of the Environment, Water, Heritage and the Arts, Greenhouse Challenge Plus, <http://www.environment.gov.au/settlements/challenge/members/about.html> (accessed 26 March 2009).

3 ATO, 'Fuel Tax Credit and the Greenhouse Challenge Plus programme', <http://www.ato.gov.au/businesses/content.asp?doc=/content/76476.htm> (accessed 24 March 2009).

4 The Hon Chris Bowen, Minister for Competition Policy and Consumer Affairs, and Assistant Treasurer, Second reading speech, *House of Representatives Hansard*, 19 March 2009, p. 17.

5 Explanatory Memorandum, p. 6.

8.4 The Hon Chris Bowen MP, Assistant Treasurer, noted that because the GCPP will end on 30 June 2009:

Without this amendment, businesses would be unable to claim fuel tax credits in excess of \$3 million in a financial year after 30 June 2009. This would be inconsistent with the policy intent of the fuel tax credit system.⁶

8.5 Minor amendments are required to Schedule 3 to the *Fuel Tax (Consequential and Transitional Provisions) Act 2006*.⁷

6 The Hon Chris Bowen, Assistant Treasurer, Second reading speech, *House of Representatives Hansard*, 19 March 2009, p. 17.

7 Explanatory Memorandum, p. 101.

Schedule 8

Tax exemption for certain grants to businesses affected by the Victorian bushfires

Background

9.1 In February 2009, Victoria experienced the worst bushfire in its history. Many people, businesses and other organisations were affected by the fires. On 18 February 2009, the Australian Government, together with the Victorian Government, announced a \$51 million assistance package to small businesses and primary producers affected by the fires.¹

9.2 The package includes a \$5,000 Clean-up and Restoration Grant which can be increased up to \$25,000 if the suffered damage is significant. Such grants are usually treated as assessable income while expenses related to the carrying on of a business (that is, those funded by the grant) are generally deductible.²

Purpose

9.3 Schedule 8 amends the *Income Tax Assessment Act 1997* to exempt from tax the Clean-up and Restoration Grants. The exemption applies to income years 2008–09 and 2009–10.³

Financial impact

9.4 The measure is expected to cost less than \$7 million over four years, with no compliance cost.

Senator Annette Hurley
Chair

1 Explanatory Memorandum, p. 103.

2 Explanatory Memorandum, p. 103.

3 Explanatory Memorandum, p. 7.

