The Senate

Standing Committee on Economics

Tax Laws Amendment (Budget Measures) Bill 2008

June 2008

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Senate Standing Committee on Economics

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TABLE OF CONTENTS

Chapter 1

Introduction

Background

1.1 The Tax Laws Amendment (Budget Measures) Bill 2008 implements part of the 2008–09 budget by amending taxation legislation to remove anomalies with respect to:

- some concessionally taxed fringe benefits;
- employee share schemes; and
- the depreciation period for computer software.

1.2 The Bill was introduced into the House of Representatives on 27 May 2008 and passed by the House on the following day. The Senate referred the bill to the Senate Standing Committee on Economics on 18 June 2008 for report by 24 June 2008.

Conduct of the inquiry

1.3 The committee placed information about the inquiry on its website, inviting written submissions by 20 June 2008. The committee also contacted some relevant organisations inviting written submissions. The five submissions received, listed in Appendix 1, are available on the committee's website at http://www.aph.gov.au/Senate/committee/economics_ctte/tlab_budget_measures_08/index.htm.

1.4 The committee held a public hearing in Canberra on Friday 20 June. The witnesses are listed in Appendix 2.

1.5 The committee thanks those who have contributed to the inquiry.

Structure of the report

1.6 The provisions related to fringe benefits, employee share schemes and software depreciation are discussed in Chapters 2, 3 and 4 respectively. The committee's conclusions are presented in Chapter 5.

Chapter 2

Fringe benefits

2.1 The most contentious aspects of the bill are the changes to the rules concerning fringe benefits.

Meal cards

2.2 Schedule 1 of the bill amends the *Fringe Benefits Tax Assessment Act 1986* to exclude food and drink provided as part of a salary sacrifice arrangement from the exemptions from fringe benefits tax applying to goods consumed on an employer's premises.

2.3 This exemption had originally been intended to apply only to meals consumed in staff canteens or other minor benefits such as a ration of beer for brewery workers or bread rolls consumed by workers in a bakery.[1] However, it has increasingly been used for meals provided to employees under salary sacrifice arrangements, including the use of 'meal cards'. Under such arrangements an employer pays for an employee's meals provided by an independent caterer who either operates in the workplace or delivers to it.[2] Treasury is concerned that the use of meal cards was becoming more prevalent as their use was being promoted in advertising. The committee was shown examples of advertisements headed 'make your lunch break a tax break'. This meant that the unintended use of the exemption is becoming an increasingly large drain on revenue.

2.4 The growing use of meal cards also raises equity issues. An employee with a meal card pays for meals out of pre-tax salary while most workers have to pay out of after-tax income. In other words, ordinary taxpayers are paying for a third or more of the cost of the meals consumed by the card holder. As Treasury put it:

> it is hard to justify why one person can get their meals at half price and the other person cannot, simply because of their employment circumstances.[3]

2.5 Some critics of the bill claim that the majority of beneficiaries of meal cards are low paid workers:

> The average participant in the programs offered by our clients is on a salary band of $55,000 to $65,000.[4]

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1 Mr Tony Coles, Treasury, *Proof Committee Hansard*, 20 June 2008, pp 2–3 and *Explanatory Memorandum*, p. 8.

2 *Explanatory Memorandum*, p. 8.

3 Mr Mark O'Connor, Treasury, *Proof Committee Hansard*, 20 June 2008, p.9.

4 Remunerator, *Submission 3*, p. 1.

> Salary sacrificing for lunch is predominately used by busy ordinary workers who have limited lunch breaks…Of the 30 000 employees using the sustenance benefit industry surveys demonstrate that over 60% are in the 30% tax bracket…over 70% work in the manufacturing, hospitality, health and insurance industries.[5]

> …people using meal cards to eat at workplace cafeterias aren't high-flying executives on $150K a year. Generally it's people who work in factories, plants, and other remote locations…[6]

> the majority of organisations who allowed their staff to package on-site meals were non-CBD and therefore included a high proportion of lower paid blue-collar workers.[7]

2.6 There were others who placed the emphasis elsewhere:

> …a much more significant benefit to a range of presumably higher income earners.[8]

> …tax-efficient meal cards, which have become increasingly popular in corporate dining rooms…[9]

> You do not see the person who packs their sandwiches at home and goes to work getting any tax benefit out of the meal that they have prepared, and they have prepared it with their own labour. They have already paid tax on the dollars that bought the bread, the ham, the tomatoes and the butter. Why should someone who happens to be the beneficiary of a structured arrangement get a tax benefit? [10]

2.7 There were concerns expressed about the impact of the bill on firms' ability to offer attractive salary packages:

> A great user of this benefit is in the manufacturing sector. It is a highly competitive industry for staff but to maintain and reduce costs particularly where they are competing with overseas companies and imported goods.[11]

2.8 As with the removal of any tax anomaly, firms selling the good favoured by the tax concession are likely to suffer:

> Certainly there will be a financial impact on the many small businesses that sell food and drink under meal card deals. A great example of that was aired in the media last week. A person who runs a small cafe—for example, on the ground floor of a larger building in one of our major capital cities—

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5 EzyBite, *Submission 2*, pp 4–5.

6 Helen, an EzyBite customer, cited in *Submission 2*, p. 22.

7 Fleximeals, *Submission 4*, p. 1.

8 Mr Tony Coles, Treasury, *Proof Committee Hansard*, 20 June 2008, p. 3.

9 Business columnist, Jacob Saulwick, *Sydney Morning Herald*, 14 May 2008, p. 2.

10 Mr David Bradbury MP, *Proof House of Representatives Hansard*, 28 May 2008, p. 82.

11 Remunerator, *Submission 3*, p. 2.

> relies on this sort of business to keep their doors open... Those small businesses are going to be casualties of this ill thought out measure.[12]

2.9 Health concerns were also raised:

> It is our assertion that it was a small but popular benefit with staff which encouraged productivity and healthy eating.[13]
>
> [Not having EzyBite] makes it harder to get a decent lunch meal and instead I snack on junk food and then feel sick - bring it back!!! [14]
>
> The capacity to rely on the sustenance benefit gives workers surety of lunch and avoids the risk that they will skip meals because of time constraints in purchasing lunch outside. This supports the health and well being of workers.[15]
>
> The changes will impact me significantly. I had renewed quality of life with EzyBite as it meant that I actually had lunch! [16]

2.10 There were also references to loss of productivity and leisure time:

> Now that there are no savings benefits I am not eating as often as I was at the cafeteria, and now I have to waste time and go out and get food to eat when usually I would just walk to the cafeteria onsite, its very inconvenient.[17]

2.11 The committee is surprised, if the meal card services offer such large benefits in health, convenience and productivity, that they would not continue in the absence of a tax exemption.

2.12 The committee heard conflicting views about the impact of the bill on competition, and hence productivity, in food retailing, although the impact either way is likely to be small:

> The measure may also promote greater competition between meal providers. This is because it removes a disincentive for employees to shop around for the best price or quality available for meals.[18]
>
> …the provision of the sustenance benefit actually promotes competition amongst food vendors and reduces the stranglehold that café's in the bottom of buildings tend to have on time poor employees seeking a quick take away lunch. The choice of food vendors offered through the EzyBite

12 Mr Michael Keenan MP, *Proof House of Representatives Hansard,* 28 May 2008, p. 75.

13 Fleximeals, *Submission 4,* p. 1.

14 Anna, an EzyBite customer, cited in *Submission 2,* p. 19.

15 EzyBite, *Submission 2*, p. 5.

16 James, an EzyBite customer, cited in *Submission 2,* p. 19.

17 David, an EzyBite customer, cited in *Submission 2,* p. 20.

18 The Hon Wayne Swan MP, Treasurer, *Proof House of Representatives Hansard,* 27 May 2008, p. 45.

> system is made following a survey of the needs and wants of employees and employers at each workplace.[19]

2.13 While three of the four submissions received which discussed meal cards were from firms providing the service, and were unsurprisingly hostile to the bill, another submission praised the bill for restoring the original intent of the fringe benefits legislation:

> They are consistent with the original intent of the FBT, which was to protect the personal income tax base by ensuring that fringe benefits for personal use were brought to tax. ACOSS supports tax…policies that take account of people's ability to pay…in a fair and consistent way.[20]

2.14 An alternative response suggested to the committee was to cap the amount available to be salary sacrificed, or restrict it to employers providing healthy food choices.[21] However, this still leaves an inequity between employees of companies offering salary sacrifice and other taxpayers. It also further complicates the tax system and increases compliance costs.

2.15 Treasury estimates the measure will restore an increasing amount to revenue, rising from around $100 million in 2008–09 to around $200 million by 2011–12.[22] Evidence provided to the committee questioned this estimate:

> based on industry data it is estimated that there are no more than 30 000 people currently using this benefit and on average they salary sacrifice $100 per month. This equates to a total industry annual turnover of about $36 million. Thus removing the FBT benefit and incentive for salary sacrificing would save less than $15 million in 2008-09, not the $110 million estimated by Treasury.[23]
>
> …the estimated saving of $730m over four years is wildly overstated.[24]

2.16 Questioned on this, Treasury admitted there was no certainty about the estimate and they had the normal constraints on talking to the industry in making their estimate of the revenue currently being lost:

> The estimates that appear in the budget papers are calculated by using taxation statistics on the number of taxpayers who are shown as having salary sacrifice arrangements. There is no data specific to meal card arrangements, so a take-up rate assumption has been applied to that… it is applying anecdotal evidence and what you would, I suppose, call reasonable assumptions, drawing on whatever evidence is available—but

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19 EzyBite, *Submission 2*, p. 5.

20 Australian Council of Social Service, *Submission 1*, p. 1.

21 EzyBite, *Submission 2*, p. 18.

22 *2008–09 Budget Paper no. 2*, p. 24.

23 EzyBite, *Submission 2*, p. 17.

24 Fleximeals, *Submission 4*, p.1.

> there is not a lot… we did not talk to those providers [of meal cards in making the revenue estimates]. There was an issue in developing the measure around budget secrecy and the like, which prevented us from being able to.[25]

2.17 However, as noted above, Treasury thought that if nothing were done, usage of meal cards could grow rapidly.[26] There was an element of pre-emptive action in the measure.

Other work-related items

2.18 Also amended by Schedule 1 are the *Income Tax Assessment Act 1936* and *Income Tax Assessment Act 1997* so as to restrict the fringe benefits tax exemption for 'work-related' items to those 'used primarily for work-related purposes'. In 1995 the former Act had been amended in an effort to reduce compliance costs. Instead of requiring employers to obtain declarations of the proportion of the use of these items that was work-related, it was just assumed they were predominantly used for work.

2.19 Subsequent changes in technology have meant that many of the goods exempted under this provision, such as laptop computers, are now primarily used for private purposes. Some employees are now able to obtain items such as laptops for private use under salary sacrifice arrangements. It is unfair that some people, predominantly higher income earners, are able to buy these items out of pre-tax salary while most workers have to pay for them out of after-tax income.

2.20 The amendments would also limit the exemption to one item a year (other than replacement items) in each of the following groups (so that, for example, a laptop and a palm pilot would not be both exempt) :

- portable electronic device;
- item of computer software;
- item of protective clothing;
- briefcase; and
- tool of trade.

2.21 The bill also restricts the current practice whereby employees can claim deductions for the decline in value of laptop computers even if their effective cost had been less than the purchase price, as it had been provided as part of a salary package. This could mean that the same laptop is being claimed as a tax deduction by both the employer and employee.

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25 Mr Colin Brown, Treasury, *Proof Committee Hansard*, 20 June 2008, pp 3, 5 and 9.

26 'The evidence in respect of meal cards is that these things have been very heavily promoted and that they have been growing very rapidly'; Mr Colin Brown, Treasury, *Proof Committee Hansard*, 20 June 2008, p. 3.

2.22 Treasury estimates the measure will restore an increasing amount to revenue, rising from around $50 million in 2008–09 to around $200 million by 2011–12.[27]

2.23 This measure was criticised on the grounds that changes to the treatment of employee purchases of laptop computers will mean significantly fewer will be bought and significantly fewer children have access to them:

> It's somewhat counter-intuitive to the government's stated intention of increasing familiarity with computers and technology.[28]

2.24 On the other hand, the head of a computer wholesaler thought any effect would be small:

> …I would expect these FBT changes will only have a minimal impact…[29]

2.25 As with the meal cards measure, this aspect of the bill was praised for restoring the original intent of the fringe benefits legislation:

> They are consistent with the original intent of the FBT, which was to protect the personal income tax base by ensuring that fringe benefits for personal use were brought to tax. ACOSS supports tax…policies that take account of people's ability to pay…in a fair and consistent way.[30]

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27 *2008–09 Budget Paper no. 2*, p. 22.

28 KPMG partner Andy Hutt, cited in *Australian Financial Review*, 15 May 2008, p. 14.

29 Mark Whittard, General Manager of Toshiba Australia, cited in *Australian Financial Review*, 15 May 2008, p. 14.

30 Australian Council of Social Service, *Submission 1*, p. 1.

Chapter 3

Employee share schemes

Background

3.1 Some employers believe staff will be more motivated if they are also shareholders in the company and offer schemes to encourage this. This argument seems most applicable to a small business. An individual employee of a large company would own such a minute share of the company and their contribution to the company's total profits is so small it is hard to see how it could be much of a motivator. But the impact of a 'cultural change' can not be entirely dismissed.

3.2 Empirical evidence on whether such schemes do better align employer and employee interests, and significantly increase productivity, is mixed.[1] In Australia:

> A thorough examination of …employee share plans and their effect, if any, on productivity in Australia has not been undertaken. In fact, very little of a substantive nature is known about employee share plans in Australia at all.[2]

3.3 In the United States, where they have been most intensively studied:

> A comprehensive study on employee share ownership was conducted by the US General Accounting Office in 1986. Its report was based on a survey of 4,174 plans covering more than seven million employees. It demonstrates well the equivocal nature of the evidence concerning the efficacy of employee share plans.[3]

3.4 There are also concerns that employees already rely on the firm for their regular salary and having more of their wealth tied up in that company leaves them excessively exposed and they would be better off holding a more diversified share portfolio.

3.5 Amendments to the *Income Tax Assessment Act* in 1974 aimed to encourage employees to own shares in the company in which they worked. This policy enjoyed cross-party support, at least until concerns were raised that top executives may have been manipulating the provisions as part of aggressive tax planning.[4]

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1 It is even more doubtful when the employee receives options rather than shares as options increase in value as the firm's revenue becomes more volatile.

2 House of Representatives Standing Committee on Employment, Education and Workplace Relations, *Shared Endeavours – Inquiry into Employee Share Ownership in Australian Enterprises*, September 2000, pp 41–2.

3 *Shared Endeavours*, p. 43.

4 *Shared Endeavours*, Chapter 2.

Election mechanism

3.6 A common means of encouraging employees to hold shares in the firm is to offer them shares at a discount from the market price. This discount is assessable income for tax. An employee can choose to be either taxed in the year the shares are acquired or at a later 'cessation' time.[5]

3.7 Schedule 1 of the bill amends the *Income Tax Assessment Act 1936* so that an employee wishing to be assessed on discounts on shares received in the year of acquisition must make the election in the year in which they are acquired.

3.8 Some tax experts argue that the proposed changes to taxing of employee share schemes will have no effect:

> We are all surprised about the announcement because it's nothing more than what the current law is.[6]

3.9 Asked about this, Treasury replied:

> The essence of the change in relation to employee share schemes is just to give certainty to the application of the law.[7]

3.10 The measure is projected to raise around $20 million a year.[8]

Removal of double taxation

3.11 Schedule 1 of the bill also amends the *Income Tax Assessment Act 1997* to ensure a trustee or beneficiary of an employee share trust is not subject to capital gains tax where an employee who exercises employee share scheme rights becomes absolutely entitled to the shares in the trust. This measure is not expected to affect revenue. The measure is relatively uncontroversial with the only reference to it in submissions being a request for an earlier application date.[9]

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5 The *Explanatory Memorandum* (p. 18) explains that 'cessation time' occurs at the earliest of:

- when restrictions on sale are lifted;
- an employee sells the shares;
- employment ceases; or
- ten years after the shares were acquired.

6 Mr Martin Morrow, KPMG, quoted in *Australian Financial Review*, 15 May 2008, p. 12.

7 Mr Tony Coles, Treasury, *Proof Committee Hansard*, 20 June 2008, p. 8.

8 The *Explanatory Memorandum*, p. 4, estimates the revenue impact as $77 million over four years.

9 Corporate Tax Association, *Submission 5*.

Chapter 4

Depreciation of computer software

4.1 Schedule 2 of the bill amends the *Income Tax Assessment Act 1997* to increase the period over which taxpayers write off for tax purposes depreciable in-house software, from 2½ to 4 years.

4.2 The measure increases revenue. As some revenue is brought forward (by deferring a deduction), the increase in revenue is projected to peak at $681 million in 2010–11 before settling down to around $70 million in later years.[1]

4.3 The measure aligns the depreciation period for computer software with that for computer hardware.

4.4 The following exchange with Treasury in Budget Estimates suggests the measure is not based on any evidence that software is depreciating more slowly than used to be the case.

> Senator BUSHBY—Do you have evidence that software lasts longer now than it did in the past—its applicability and usefulness?
>
> Mr Brown—The main feature of the costing is that it aligns the effective life of the software with the effective life of the relevant hardware. In terms of the life of software, no.[2]

4.5 Some accountants have challenged it:

> It is a curious change as the rate of technological advances mean that the useful life of software is generally becoming shorter rather than longer. [3]

4.6 However, four years seems more consistent with general views about the useful life of software. A study by Statistics Canada suggests the useful life of computer software was 3 to 5 years.[4] In the United Kingdom software is depreciated at 25 per cent using accelerated depreciation, while in Ireland it is depreciated over seven years.[5]

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1 *Explanatory Memorandum*, p. 5 and *Proof Estimates Hansard – Economics*, 3 June 2008, p. 98.

2 *Proof Estimates Hansard – Economics*, 3 June 2008, p. 99.

3 Mr Mark Whittard, General Manager, Toshiba Australia, cited in *Australian Financial Review*, 15 May 2008, p. 14.

4 John Baldwin et al, 'Estimating depreciation rates for the productivity accounts', Statistics Canada, September 2005, p. 77.

5 Brent Mast, Congressional Research Service, 'Selected international depreciation rates by asset and country', January 2007.

4.7 The accounting treatment of software by some large companies (concentrating on those likely to be large users of software) and agencies is shown in Table 4.1. Given the data shown below, four years does not seem an unreasonable assumption for the useful life of software.

Table 4.1: Depreciation of software: assumed useful lives (years)

Banks		***Government***	
ANZ Bank	3 to 5	Department of Treasury	3 to 5
Commonwealth Bank	3	Australian Taxation Office	5
National Australia Bank	3 to 5	Australian Bureau of Statistics	2 to 28
Westpac	3 to 5	Dep't of Prime Minister & Cabinet	4 to 5
St George Bank	3 to 5	Reserve Bank of Australia	4 to 7
Macquarie Bank	3	***Other***	
Suncorp	3 to 5	Rio Tinto	2 to 5
Other Financial		Telstra	6
Australian Securities Exchange	7 to 10	Metcash	5
Insurance Australia Group	3	Qantas	3 to 5
QBE Insurance	5	Brambles	3 to 7
Challenger Financial Services	5	Toll Holdings	3 to 5

Sources: latest Annual Reports

4.8 A point raised by Treasury is that small business will be insulated from this measure:

> small business is unaffected by this measure because small businesses—that is, those with a turnover of less than $2 million—retain the ability to either write things off immediately if it is under $1,000, or to put it in a pool if it is above that… there are between 1.9 and two million small businesses. They are not going to be affected by this…[6]

6 Mr Matthew Flavel, *Proof Committee Hansard*, 20 June 2008, p. 6.

Chapter 5

Conclusions

5.1 The committee believes that the main amendments in the bill, while relatively modest steps, will make the tax system fairer and more efficient. It hopes that many more changes along similar lines will flow from the report of the Australia's Future Tax System Review Panel.

5.2 The measures increase revenue, and so are unpopular with some of those from whom the revenue is raised. However, the measures are in the overall public interest. They allow reductions in other forms of taxation. They also help the Government maintain a moderately restrictive fiscal stance, which supports the Reserve Bank in restraining inflation, and thereby lowers pressures on interest rates.

5.3 The main objections in submissions were to removing the exemption from fringe benefits tax currently enjoyed by people able to buy their lunch cheaper through salary sacrifice. The bill will mean these people have to pay the same for a lunch as those not able to package their salaries in this way. The bill does not, of course, stop people buying a healthy lunch or having it delivered to their workplace, or prevent employers subsidising this, although some of the objections might give this impression.

5.4 There is a case for holding off on reforms to the tax system until the Government responds to the Australia's Future Tax System Review Panel, to reduce the compliance costs for taxpayers of adjusting to changing rules. But on balance the committee feels it is better to make improvements now rather than waiting two or more years.

Recommendation 1

5.5 The committee recommends that the Senate pass the bill.

5.6 The committee notes concerns that the revenue to be raised by removing the fringe benefits tax exemption for meal cards may be considerably overstated. It accepts Treasury's arguments as to why it could not previously consult with industry about the measure.

Recommendation 2

5.7 The committee recommends that the Treasury consult with industry to reassess the revenue impact of removing the fringe benefits tax exemption for meal cards before the Mid-Year Economic and Fiscal Outlook.

Senator Annette Hurley

Chair

Additional Comments from the Coalition

Overview

The Tax Laws Amendment (Budget Measures) Bill 2008 amends taxation legislation to give effect to some of the policy initiatives announced as part of the 2008-09 Budget. Specifically it amends the *Fringe Benefits Tax Assessment Act 1986*, *Income Tax Assessment Act 1936* and *Income Tax Assessment Act 1997*.

The proposed amendments affect the tax treatment of:

- Employee share schemes;
- Some fringe benefits provided to employees that are now concessionally taxed; and
- The depreciation period for computer software.

Discussion

The Bill deals with the following revenue raising measures.

Fringe Benefits Tax – Meal Cards, raising an estimated $610 million over the forward estimates

The stated intent of the measure is to tighten the law applying to arrangements for work related items and for property consumer on an employer's premises. These meal card arrangements rely on the exemption given in the FBT legislation for property consumed on business premises on a working day. These is no suggestion that the meal card arrangement has been an exercise in avoidance – far from it. The Australian Taxation Office (ATO) has issued a number of class rulings that sanction meal card-like arrangements.

This measure takes effect to food and drink provided after 7:30 pm AEST on 13 May 2008, but allows undrawn balances on food cards to be accessed without FBT until 31 March 2009 (the end of the current FBT year).

In testimony Accor Services stated that meal cards are used by a wide range of low to middle income earners who would be significantly disadvantaged by the changes. Accor also considered that the revenue estimated was overstated.

Accor Services stated that it had 7000 clients, with more than 60 per cent on a 30 per cent marginal tax rate and 60 per cent of whom are female.

Fringe Benefits Tax – Eligible work related items, raising an estimated $530 million over the forward estimates

The stated intent is to tighten the FBT exemption given for certain things provided by an employer to enable an employee to do their job.

Currently there are some items exempt from FBT, despite the legislation not expressly requiring the employee to use the item in the course of his or her duties – for example, laptops and PDAs. As well, the legislation did not provide a limit on the number of items that the employee could take through salary packaging arrangements.

The measure will restrict the FBT exemption to items that are used primarily for work-related purposes and limit the employee to one item a year, unless the item is a replacement.

The measure applies to items acquired after 7:30 pm AEST on 13 May 2008.

In addition, employees will no longer be able to depreciate these FBT exempt work-related items.

Employee share schemes – election to be taxed on shares or options in the year of grant, raising an estimated $77 million over the forward estimates

This is described as an integrity measure. Under the measure, when an employee who is granted shares or options at a discount to market value elects to be taxed on that discount in the year of grant (instead of deferring tax say to the year of sale), the employee will not be able to take advantage of changes in value and try to 'backdate' the election. That is, the ATO is unlikely in the future to let employees amend earlier year returns to include the discount belatedly.

Employee share schemes – removal of double taxation

This corrects a technical exposure to capital gains tax for trustees and members of employee share schemes on the member becoming absolutely entitled to share in the ESS.

Depreciation of computer software, raising an estimated $1.3 billion over the forward estimates

This measure increases the depreciation period on computer software from 2.5 years to 4 years, which is aligns it with computer hardware. Effectively the measure defers deductions.

Software which is purchased on a rental agreement (eg 1 year license fee) would remain immediately deductible. In addition, provided software is replaced, the undeducted balance becomes immediately deductible.

Recommendations

Coalition Senators are concerned about the impact of the meal cards measure which has the potential to significantly affect low to middle income earners. Coalition Senators recommend that the Government give consideration to amending the Bill with a limit on the taxable income (including salary sacrificed income) and/or a limit on the value of the meals and drinks to be consumed.

Coalition Senators recommend the Coalition give consideration to policies to alleviate the harm caused by the Government's measure during its policy-review process.

Coalition Senators note that the employee share scheme – election to be taxed on shares or options in the year of grant does not close a loophole, it merely targets an abuse of the present law. Coalition Senators are surprised at the estimated revenue from this measure.

Coalition Senators are also surprised at the revenue estimate for the depreciation of computer software measure. Given that many businesses will presumably write off software before the four year period, it may be that the Government has over-estimated the revenue likely to flow from this measure.

Subject to the above comments, Coalition Senators recommend that the Opposition not oppose the Bill.

APPENDIX 1

Submissions Received

Submission Number	Submitter
1	Australian Council of Social Service (ACOSS)
2	Accor Services EzyBite
3	Remunerator (Aust) Pty Ltd
4	FlexiMeals Pty Ltd
5	Corporate Tax Association

Additional Information Received

- Received from the Treasury on Tuesday, 24 June 2008. Answers to Questions on Notice from 20 June 2008.

TABLED DOCUMENTS

Friday, 20 June 2008, Canberra

- '*Make your lunch break a Tax Break*', McMillan Shakespeare, tabled by Mr Mark O'Connor, Principal Adviser, Personal and Retirement Income Division, Treasury;
- '*A high impact, low cost benefit that's available to all your employees*', fleximeals, tabled by Mr Mark O'Connor, Principal Adviser, Personal and Retirement Income Division, Treasury;
- '*EzyBite Accor Services*', tabled by Senator Alan Eggleston.

APPENDIX 2

Public Hearing and Witnesses

CANBERRA, 20 JUNE 2008

BROWN, Mr Colin, Acting General Manager,
Taxation Analysis Division, Department of the Treasury

COLES, Mr Tony, Manager,
Personal and Retirement Income Division, Department of the Treasury

FLAVEL, Mr Mathew James, Acting General Manager,
Business Tax Division, Department of the Treasury

McMAHON, Mr Paul Denis, Manager,
Capital Gains Tax Unit, Department of the Treasury

O’CONNOR, Mr Mark John, Principal Adviser,
Personal and Retirement Income Division, Department of the Treasury

WATSON, Mr Andrew James, National Director,
High Income Individuals, Micro Enterprises and Individuals, Australian Taxation Office