



Tax highlights

12 May 2014

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Key developments this week

Reforms to thin cap and the exemption for foreign non-portfolio dividends – exposure draft

(ED) legislation released: On 8 May 2014, the Government released [ED legislation](#) relating to the thin capitalisation regime, including reform of the current section 23AJ of the *Income Tax Assessment Act 1936* (ITAA 1936). These measures were originally announced in the [2013-14 Federal Budget](#). On 6 November 2013, the Coalition Government [announced](#) that it would proceed with these measures.

Broadly, the proposed amendments in the ED:

- Tighten the debt limits in the thin capitalisation regime (e.g. reducing the maximum safe harbour debt limit from 3:1 to 1.5:1 (on a debt-to-equity basis) for general entities and from 20:1 to 15:1 (on a debt-to-equity basis) for non-bank financial entities)
- Increase the de minimis threshold from \$250,000 to \$2 million of interest expense per annum to minimise compliance costs for small businesses
- Introduce a test for inbound investors to allow gearing of Australian operations up to the level of gearing of the worldwide group
- Reform the exemption for foreign non-portfolio dividends.

Submissions on the ED are due by 6 June 2014.

The 2013-14 Federal Budget announcement and the 14 May 2013 Proposals Paper also proposed to repeal section 25-90, which allows tax deductibility for interest expenses incurred in deriving exempt foreign dividend income. Subsequently, the Coalition Government announced on 6 November 2013 that it would not proceed with the repeal of section 25-90 but would instead introduce a “targeted anti-avoidance provision after detailed consultation with stakeholders”. The ED does not include the targeted integrity measure.

Comments – Thin capitalisation: *The rules commence for income years starting on or after 1 July 2014. There are no transitional measures. The thin capitalisation ED appears to have some drafting and cross referencing errors which will be corrected in the consultation phase.*

As a separate matter, it is noted that the Board of Taxation is still reviewing the arm's length debt test.

The main matter of substance is the introduction of the new worldwide gearing test as an option for inbound entities. The rationale for the new worldwide gearing test is that it “better reflects the policy intent of the thin capitalisation rules” and allows “Australian operations to claim deductions on their

debt where they are geared to the same level as the global group". This effectively allows financial markets to determine thin capitalisation compliant gearing levels.

The intention is that the new worldwide gearing test should be made available to inbound entities and also to entities that are both inbound and outbound – although there appear to be some drafting matters that need to be addressed.

To access the new worldwide gearing test, it is necessary that there are eligible financial statements. Broadly, these are audited consolidated financial statements prepared under "recognised overseas accounting standards". The ED provides that if there are two or more sets of eligible financial statements, where "the entities in relation to which each set of financial statements have been prepared are not identical", the new worldwide gearing test is not available. This matter needs to be clarified.

Where the new worldwide gearing test is available, this could be beneficial for Australian businesses owned by foreign groups that have substantial leverage.

Comments – Exemption for foreign non-portfolio dividends: Section 23AJ of the ITAA 1936 is to be repealed and new subdivision 768-A is to be inserted into the Income Tax Assessment Act 1997 (ITAA 1997).

The key concept for non-assessable non-exempt income (NANE) treatment under subdivision 768-A is that of a "foreign equity distribution", being a "distribution or non-share dividend made by a company that is a foreign resident in respect of an equity interest in the company". The NANE character should remain where the foreign equity distribution flows through a trust or a partnership.

The new subdivision 768-A both:

- Narrows the former section 23AJ by excluding shares which are debt interests for Australian tax purposes
- Widens the former section 23AJ by including non-share equity interests for Australian tax purposes. The EM notes that the change will permit the exemption on a broader range of equity interests.

The Australian shareholder is still required to be a company, not being a company in the capacity of a trustee. The Australian shareholder must have a direct and / or indirect participation interest (rather than a voting interest) of at least 10% (winding up rights are disregarded).

The ED does not expressly provide a start date for subdivision 768-A however, it is also expected to apply for income years starting on or after 1 July 2014, as per the 2013-14 Federal Budget announcement. This needs to be confirmed.

The portfolio dividend exemption in section 404 of the ITAA 1936 (i.e. in the CFC rules) is also to be repealed. The commencement date for the repeal of Section 404 needs to be clarified.

If you have any queries, contact [Vik Khanna](#) (Melbourne), [Claudio Cimetta](#) (Melbourne), [Peter Madden](#) (Sydney) or [David Watkins](#) (Sydney).

G20 International Tax Symposium: On 9-10 May 2014, the [G20 International Tax Symposium](#) was held in Tokyo, to discuss key items on the G20 tax agenda. In his [opening remarks](#) to the symposium, Barry Sterland (Australia's G20 Finance Deputy), outlined the G20 tax agenda. Specifically, he referred to the three inter-related streams of work it comprises:

- The G20 and OECD project to address BEPS to ensure profits are taxed in the location where the economic activity takes place
- Promoting and enhancing international tax transparency through greater exchange of information between tax administrators
- Ensuring that low-income and developing countries benefit from the G20 work on BEPS and the exchange of information.

Mr Sterland noted that whilst delivery on the G20/OECD tax agenda was still work in progress, it is already influencing the behaviour of tax administrators and taxpayers. Administrators are already looking more closely at the tax implications of the cross border operations of companies.

Deloitte was a sponsor of the event and the Australian firm was represented by Fiona Craig (National Cross Border Tax Leader and Transfer Pricing Partner) and Peter Madden (International Tax Partner). In addition, global Deloitte panellists led discussions on the following topics:

- The features of the current international tax rules that facilitate BEPS – Dan Lange (Global Head of Tax, United States of America)
- The areas of treaty frameworks that are vulnerable to the greatest abuse and the balance between efforts to alter treaty frameworks and efforts to alter domestic laws – Steve Towers (Asia-Pacific Leader International Tax, Singapore).

In [closing remarks](#), Masatsugu Asakawa (Chair of the OECD's committee of Fiscal Affairs), noted the need

- To act quickly around BEPS to provide certainty for business
- To keep in mind confidentiality issues for information exchange processes
- For a multilateral approach on treaty issues (such as a multilateral instrument) and strong political will
- To support developing countries in order for these countries to participate in information exchange and to develop transfer pricing capabilities.

Victoria: 2014-15 State Budget: The following revenue-related measures were announced in the [Victorian 2014-15 State Budget](#) on 6 May 2014:

- A reduction in the payroll tax rate from 4.9% to 4.85% from 1 July 2014
- The abolition of life insurance duty from 1 July 2014 (currently charged at rates of up to 0.12% of the amount insured)
- The introduction of a 'metropolitan planning levy' from 1 July 2015, on planning permit applications in metropolitan Melbourne with construction costs exceeding \$1 million. The levy will apply at the rate of \$1.30 for each \$1,000 of the estimated development cost.
- A \$0.40 per \$200 or part thereof increase to stamp duty on motor vehicle registrations and transfer of registrations of motor vehicles, from 1 July 2014 (i.e. the stamp duty rates will increase to 3.2% for new passenger cars valued below the luxury car tax (LCT) threshold; 5.2% for new passenger cars valued above the LCT threshold; 2.7% for new non-passenger vehicles; 4.2% for used vehicles).

- A \$25 increase to light vehicle registration fees to \$270 from 1 July 2014. Light vehicles include cars, motorcycles, motor trikes or trucks that weigh 4.5 tonnes gross vehicle mass (GVM) or less.

The announced changes, and other associated changes, are subject to the passage of the [Building a Better Victoria \(State Tax and Other Legislation Amendment\) Bill 2014](#), introduced on 6 May 2014.

Western Australia: 2014-15 State Budget: The [WA State Budget](#) was announced on 8 May 2014. New revenue-related measures included in the 2014-15 Budget include:

- A 10% increase in land tax rates from 1 July 2014
- An increase in the Perth Parking Levy. From 1 July 2014, the current levies (ranging from \$630.80 to \$728.70 per annum per liable parking bay, depending on parking category) will increase by \$182.50. A further increase of \$182.50 will take effect from 1 July 2015
- A winding back of the first home buyer transfer duty concession. From 1 July 2014, a full exemption from transfer duty will be limited to first home purchases worth \$430,000 or less (currently \$500,000 or less), and the partial exemption for first home purchases above \$430,000 will be limited to those worth less than \$530,000 (currently \$600,000). The property value thresholds at which the concession applies for purchases of vacant land to remain as currently (i.e. full exemption on land valued up to \$300,000, phasing out at \$400,000)
- The abolition of the \$36 private use vehicle registration discount, from 1 July 2014. Currently, the discount is available to anyone who nominates that they drive their vehicle for non-business purposes
- An increase to the landfill levy rates. From 1 January 2015, the levy will increase from \$28 per tonne to \$55 per tonne for waste that is liable to decay/become putrid and from \$8 per tonne to \$40 per tonne for inert waste.

Previously announced revenue-related measures noted in the 2014-15 Budget include the increase in the payroll tax threshold from \$750,000 to \$800,000 from 1 July 2014, and amendments to State tax legislation to exclude certain business, professional and industry organisations from accessing the payroll tax, transfer duty and land tax exemptions intended for charitable organisations.

The announced changes are subject to the passage of legislation.

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Resumption of Parliament and Federal Budget 2014-15: Parliament will [resume](#) the 2014 Winter sittings this week on Tuesday 13 May 2014, with the release of the Federal Budget at 7.30pm. Click [here](#) to view the Deloitte Federal Budget home page (including a link to register for the Federal Budget webinar).

Legislation proposed for introduction in the 2014 Winter sittings (between 13 May and 17 July):

- **Tax and Superannuation Laws Amendment (2014 Measures No. 2) Bill** (proposed for introduction and passage in the Winter sittings):
 - Protect taxpayers who self-assessed relying on unenacted measures that will not proceed. See [Media release of 6 November 2013](#)

- Restate and standardise the special conditions (particularly the 'in Australia' conditions) that apply to tax exempt entities. See [Media release of 14 December 2013](#)
- Make amendments to the investment manager regime rules to introduce the final stage of reforms. See [Media release of 6 November 2013](#)
- **Tax and Superannuation Laws Amendment (2014 Measures No. 3) Bill** (proposed for introduction and passage in the Winter sittings):
 - Protect the corporate tax base by restricting the current immediate deduction for exploration to genuine exploration expenditure
 - Protect the corporate tax base by removing loopholes from the income tax consolidation regime
 - Introduce an integrity rule to limit the gross-up and tax offset rules within the dividend imputation system applying in cases where taxpayers have engaged in an arrangement referred to as 'dividend washing'

See [Media release of 6 November 2013](#)

- **International Tax Agreements Amendment Bill (No. 1):**
 - Give the force of law to the revised tax treaty with Switzerland. See [Media release of 6 November 2013](#)
- **Tax and Superannuation Laws Amendment (2014 Measures No. 4) Bill:**
 - Ensure foreign pension funds can access the managed investment trust withholding tax regime
 - Improve the integrity of the foreign resident capital gains tax regime through technical amendments to the principal asset test in Division 855 of the ITAA 1997

See [Media release of 6 November 2013](#).

Click to view the [list of legislation proposed for introduction](#) as released by the Department of Prime Minister and Cabinet.

Debate scheduled in the Senate: According to the [draft legislation program](#), debate is scheduled to resume in the Senate on **Tax Laws Amendment (Research and Development) Bill 2013** this week. Also scheduled for debate in the Senate this week is **Tax Laws Amendment (2014 Measures No. 1) Bill 2014**, although this Bill is still currently before the House of Representatives and has not yet been introduced into the Senate.

Miscellaneous amendments – ED legislation released: On 7 May 2014, the Government released [ED legislation and explanatory material](#) which proposes to make miscellaneous amendments to the taxation laws. Broadly, the amendments seek to ensure the law operates as intended by correcting technical or drafting defects, removing anomalies and addressing unintended outcomes. Some key changes include:

- **Consolidation – tax cost setting rules for depreciating assets:** This amendment makes a technical correction to section 701-55(2)(d) of the ITAA 1997 to ensure that, for certain assets (such as certain intangible depreciating assets, indefeasible rights to use a telecommunications cable system and mining, quarrying or prospecting rights), the effective life of the asset can be worked out under sections 40-95(7) to (10) of the ITAA 1997 for the purposes of determining future depreciation deductions. This addresses Tax Issues Entry System [TIES issue 22/2011](#)
- **Consolidation – entity joins or leaves a group holding a bad debt:** This amendment modifies Item 4 of the table in section 709-215(4) of the ITAA 1997 to clarify that a debt test

period ends when a subsidiary member of a consolidated group ceases to be a member of the group taking the debt with it but does not join another consolidated group. This addresses [TIES issue 21/2011](#)

- **Consolidation – excess franking deficit tax offsets:** This amendment makes technical corrections to Subdivision 709-C (treatment of excess franking deficit tax offsets when entity becomes a subsidiary member of a consolidated group) to ensure that it reflects the 2006 amendments to the franking deficit tax offset rules. This addresses [TIES issue 11/2011](#)
- **Continuity of ownership test (COT) – death of beneficial owner of shares:** This amendment ensures that, for the purposes of applying the COT after a shareholder dies, the deceased individual is considered to retain all voting power, dividend entitlements and capital distributions so long as the shares are owned by either the trustee of the deceased person's estate or by a beneficiary of the estate. This addresses [TIES issue 31/2010](#)
- **Goods and services tax (GST):** GST amendments include amendments to reflect the adoption of a self-assessment system for GST from 1 July 2012 – i.e. repeal of section 17-15 of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act) (working out net amounts using approved forms) and amendment of section 93-15 of the GST Act to clarify that an entitlement to an input tax credit concerning GST on a supply ends when the Commissioner is no longer able to amend an assessment of an assessable amount relating to the GST.

Submissions on the ED are due by 6 June 2014.

Emissions Reduction Fund (ERF) – ED legislation released: On 9 May 2014, the Minister for the Environment [released ED legislation](#) to implement the ERF. The ERF has three elements:

- **Crediting emissions reductions:** The Clean Energy Regulator will issue Australian carbon credit units for emissions reductions that are estimated and audited using approved methods. These credits can then be purchased through the ERF or used under voluntary carbon offsetting programs. The methods for crediting emissions reductions will be developed for activities, such as energy efficiency and land sector projects, as well as for large industrial facilities
- **Purchasing emissions reductions:** The Clean Energy Regulator will purchase emissions reductions at the lowest available cost, generally through reverse auctions
- **Safeguarding emissions reductions:** The safeguard mechanism will ensure that emissions reductions paid for by the ERF are not displaced by a significant rise in emissions elsewhere in the economy. The safeguard mechanism will commence on 1 July 2015 and the design will be finalised through further consultation (detailed design of the ERF's safeguard mechanism will be implemented through a separate legislative package).

Submissions on the ED are due by 23 May 2014.

Resource Capital Fund III LP (RCF) – TARP issue – final orders: On 3 April 2014, the Full Federal Court handed down the decision in [Commissioner of Taxation v Resource Capital Fund III LP \[2014\] FCAFC 37](#). In that decision, the Commissioner was successful in respect of the treaty issue (see [Tax highlights 7 April 2014](#) for a summary of the decision).

On the taxable Australian real property (TARP) issue under Division 855 of the ITAA 1997, the Court required that the relevant valuation testing be done “on the basis of an assumed simultaneous sale of [St Barbara Mine's (SBM)] assets to the same hypothetical purchaser with the capacity to use those

assets in combination in a gold mining operation as their highest and best use". The Court noted that all the valuation experts agreed that in the case of a simultaneous sale to the one purchaser, the purchaser would be expected to acquire the mining information and plant and equipment for less than their re-creation costs with little or no delay. The Court referred the matter back to the parties to seek to resolve the TARP issue.

The shares in SBM had been sold by RCF at two separate dates, being July 2007 and January 2008. It was conceded by RCF that the 'principal asset test' in section 855-30 of the ITAA 1997 was passed as at January 2008, meaning that the value of the TARP assets exceeded the value of the non-TARP assets. However, RCF contended that on the valuation evidence, the 'principal asset test' was not passed as at July 2007.

The Full Federal Court concluded in its final orders issued on 2 May 2014 that RCF's valuation argument as at July 2007 was inconsistent with the correct valuation hypotheses and methods. The Court did not reach a final view as to the valuation evidence at that date, but rather concluded that RCF had not discharged its burden of proof that the assessment was excessive. Accordingly, the Commissioner was successful on the TARP issue on both dates. As a result, the assessment to RCF in respect of the capital gain stands.

It remains to be seen whether RCF will seek leave to appeal to the High Court – click to view [Commissioner of Taxation v Resource Capital Fund III LP \(No 2\) \[2014\] FCAFC 54](#) (2 May 2014).

Appeals update:

- **Australian Pipeline:** The taxpayer has discontinued its appeal to the Full Federal Court against the decision of the Federal Court in [Australian Pipeline Limited as Responsible Entity for the Australian Pipeline Trust v Commissioner of Taxation \[2013\] FCA 1372](#). In that case, the Federal Court dismissed the taxpayer's appeal from the Commissioner's objection decision regarding an adverse private ruling that a joining entity was an associate of the taxpayer "just before the joining time" within the meaning of section 705-47(5)(b)(i) of the ITAA 1997. As a result, the tax cost setting amount for certain depreciating assets held by the joining entity, including a high-pressure gas transmission network and a liquid natural gas storage facility that were subject to the operation of Division 58 of the ITAA 1997, would be reduced under section 705-47(2) of the ITAA 1997 to the joining entity's terminating value of the assets. For more information, refer to [Tax highlights 14 January 2014](#)
- **SPI PowerNet Pty Ltd:** The taxpayer has lodged an application for special leave to appeal to the High Court against the Full Federal Court decision in [SPI PowerNet Pty Ltd v Commissioner of Taxation \[2014\] FCAFC 36](#). The Full Federal Court dismissed the taxpayer's appeal and upheld the Federal Court decision in [SPI PowerNet Pty Ltd v Commissioner of Taxation \[2013\] FCA 924](#) that held that imposts paid by the taxpayer to the Victorian State Treasurer under section 163AA of the *Electricity Industry Act 1993* (Vic) were not deductible under section 8-1 of the ITAA 1997.

Promoter penalty case – decision impact statement (DIS) released on *Ludekens & Anor*: The Commissioner has released a [DIS](#) concerning the decision of the Full Federal Court in [Commissioner of Taxation v Ludekens \[2013\] FCAFC 100](#). In that case, the Full Court held that each respondent contravened section 290-50(1) of Schedule 1 of the *Taxation Administration Act 1953* (TAA 1953) in dealing with their respective investors in a particular managed investment scheme and were

accordingly liable to civil penalties under the promoter penalty regime. For a summary of the Full Court's decision, refer to [Tax highlights 2 September 2013](#).

The ATO notes that the views of the Full Court concerning the operation of sections 290-60 and 290-65 of Schedule 1 of the TAA 1953 are consistent with the Commissioner's submissions and accepts the views of both Middleton J and the Full Court about why neither respondent had contravened section 290-50(2) of Schedule 1 of the TAA 1953.

ATO Public Rulings Program – business tax final determinations – updated as at 1 May 2014:

Final determinations scheduled for release in the next two months	
Topic	Planned issue date
Can a financial report prepared by an entity in accordance with those accounting standards it is required to apply, but not in accordance with other relevant accounting principles, satisfy paragraphs 230-210(2)(a), 230-255(2)(a), 230-315(2)(a) or 230-395(2)(a) of the ITAA 1997?	28 May 2014
Are the capital support payments described in this Determination deductible under section 8-1, section 40-880, section 230-15(2) or section 230-15(3) of the ITAA 1997?	4 June 2014
Consolidation: under subitem 50(5) of Part 4 of Schedule 3 to <i>Tax Laws Amendment (2012 Measures No.2) Act 2012</i> , does the original 2002 law only apply to the particulars that form part of a head company's assessment for an income year in respect of a joining entity if the latest notice of assessment for that income year, which relates to section 701-55(6) of the original 2002 law in respect of that joining entity, is served on the head company before 12 May 2010?	4 June 2014
Consolidation: does the exception to the pre rules in paragraph 50(3)(a) of Part 4 of Schedule 3 to the <i>Tax Laws Amendment (2012 Measures No.2) Act 2012</i> apply to an assessment (the assessment for the later income year) in the circumstance described in paragraph 1 of this Taxation Determination?	4 June 2014
Consolidation: if the conditions in subitem 50(3)(a) of Part 4 of Schedule 3 to <i>Tax Laws Amendment (2012 Measures No.2) Act 2012</i> are satisfied and the interim rules apply to an assessment and, on or after 29 June 2012, that assessment was amended to alter a claim made under the original 2010 law, do the interim rules apply to the altered claim?	4 June 2014

Consolidation: if the conditions in subitem 50(5) of Part 4 of Schedule 3 to <i>Tax Laws Amendment (2012 Measures No.2) Act 2012</i> are satisfied and the original 2002 law applies to an assessment, will a subsequent request by the head company to amend that assessment result in the pre rules applying, by virtue of subitem 50(6), to the entire assessment or only to the subsequent amendment request?	4 June 2014
Consolidation: if the conditions in subitem 50(3)(a) of Part 4 of Schedule 3 to <i>Tax Laws Amendment (2012 Measures No.2) Act 2012</i> are satisfied and the interim rules apply to an assessment and, on or after 29 June 2012 that assessment is amended to include a new claim which was not previously made in the assessment, do the interim rules apply to the new claim?	4 June 2014
When will Design Expenditure incurred by an R&D entity be included in the cost of a tangible depreciating asset within paragraph 355-225(1)(b) of the ITAA 1997 (and therefore not able to be deducted under section 355-205)?	25 June 2014
Petroleum resource rent tax: what does 'involved in or in connection with exploration for petroleum' mean?	25 June 2014
Can the exemption in section 820-39 of the ITAA 1997 apply to the special purpose finance entity established as part of the 'securitised licence structure' used in some social infrastructure Public Private Partnerships?	30 July 2014

ATO Large business and tax compliance publication updated: The ATO has [released](#) a “refreshed” version of the “Large business and tax compliance booklet”. Last released in December 2012, the booklet outlines the ATO’s current thinking on its approach to tax compliance in the large business market.

With an emphasis on “cooperative compliance” and the aim of taxpayers achieving “practical certainty”, the booklet makes reference to the ATO’s risk-differentiation framework (RDF) having been “refined and enhanced”, and includes revised figures for those large business taxpayers falling within each segment of the RDF – in addition, and as previously communicated by the ATO, the RDF is also now being applied to the ‘private groups and high wealth individuals’ area.

Whilst ostensibly little has changed within the booklet, there is a renewed emphasis on the ATO’s commitment to administering the tax system in **real time**. Specifically, the ATO continues to pilot the reportable tax position schedule, and has selected certain taxpayers to undertake pre-lodgement compliance reviews. In addition to the ATO’s historic (post-lodgement) compliance activities, this reflects what we are experiencing in our interactions with the ATO’s ‘public groups and international’ teams as they undertake compliance activities across the large business taxpayer segment.

Employment taxes

ATO Public Rulings Program – fringe benefits tax (FBT) draft determinations – updated as at 1 May 2014:

Draft determinations scheduled for release in the next two months	
Topic	Planned issue date
Is a Local Hospital network a 'public hospital' for the purposes of section 57A of the <i>Fringe Benefits Tax Assessment Act 1986</i> (FBTAA 1986)?	25 June 2014
When are the duties of an employee of a government body exclusively performed in, or in connection with, a public or non-profit hospital for the purposes of section 57A(2) of the FBTAA 1986?	25 June 2014

Taxation Determination (TD) scheduled for release on 14 May 2014:

- TD 2014/11: Fringe benefits tax: for the purposes of section 39A of the *Fringe Benefits Tax Assessment Act 1986* what is the car parking threshold for the fringe benefits tax year commencing on 1 April 2014.

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Individuals and family groups

ATO Public Rulings Program – final ruling relating to individuals and family groups – updated as at 1 May 2014:

Final ruling scheduled for release in the next two months	
Topic	Planned issue date
Matrimonial property proceedings and payments of money or transfers of property by a private company to a shareholder (or their associate)	30 July 2014

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Indirect taxes

ATO Public Rulings Program – GST draft determination – updated as at 1 May 2014:

Draft determination scheduled for release in the next two months	
Topic	Planned issue date
Goods and services tax: Development lease and similar arrangements	25 June 2014

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State taxes

Western Australia: Changes to primary production land tax exemption

The WA Government has [announced](#) the proposed outcomes of its review of the operation of the state's land tax exemption for primary production. The review was undertaken to identify ways of modernising and simplifying the exemption. Recommendations arising from the review include simplifying the current exemption requirements, clarifying the exemption's application to land that is used for both primary production and secondary processing, and extending the exemption to circumstances where land is used for primary production by a member of the owner's family. Draft legislation to implement the recommendations will be made available for public comment in mid-2014. The government has proposed that the changes would take effect from the 2014-15 land tax year.

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International tax

Countries commit to automatic exchange of information in tax matters: On 6 May 2014, the [Declaration on Automatic Exchange of Information in Tax Matters](#) was [endorsed](#) during the OECD's annual Ministerial Council Meeting in Paris. The Declaration commits countries to implement a new single global standard on automatic exchange of information, which obliges countries and jurisdictions to obtain all financial information from their financial institutions and exchange that information automatically with other jurisdictions on an annual basis. The OECD is expected to deliver detailed commentary on the new standard, as well as technical solutions to implement the actual information exchanges, during a meeting of G20 finance ministers in September 2014.

OECD – BEPS Action 2: Neutralise the effects of hybrid mismatch arrangements – comments published: The OECD has [published](#) comments received in respect of the [discussion drafts](#) on Action 2 (Neutralise the effects of hybrid mismatch arrangements) of the OECD's [Action Plan on Base Erosion and Profit Shifting](#) (refer [Tax highlights 24 March 2014](#)).

The first discussion draft had set out recommendations for domestic law changes and the second had made recommendations for changes to the OECD model treaty to clarify the treatment of hybrid entities. Deloitte UK and Deloitte US have lodged submissions on the discussion drafts – click to [here](#) view the submissions. A [public consultation](#) on BEPS Action 2 is scheduled to be held at the OECD Conference Centre in Paris on 15 May 2014 and will be broadcast over the internet.

ATO Public Rulings Program – international tax related final rulings – updated as at 1 May 2014:

Final rulings scheduled for release in the next two months	
Topic	Planned issue date
The application of the ships and aircraft article of Australia's tax treaties to taxable income derived under section 129 of the ITAA 1936 by a non-resident ship owner or charterer	28 May 2014

Satisfying the 'carrying on a business at or through a permanent establishment' requirement in section 23AH of the ITAA 1936 where a company is taken to have a permanent establishment in relation to substantial equipment

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Dbriefs Bytes: Deloitte Dbriefs Bytes is a short weekly video summary of the significant international tax developments impacting the Asia Pacific region – click to view the latest [Dbriefs Bytes](#).

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