



## Tax highlights

23 June 2014

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### *Key developments this week*

**Standing Committee inquiry into tax disputes:** The House of Representatives Standing Committee on Tax and Revenue (**Committee**) has launched an inquiry into tax disputes focussing on:

- Collection of revenue
- Fair treatment and respect of taxpayers
- Efficiency, effectiveness and transparency from both the ATO and taxpayer perspectives
- How the ATO supports the outcomes of efficiency, effectiveness and transparency through the use and publication of performance information.

The Committee will examine the above issues through the following themes:

1. Categories of taxpayers: small business, large business, high wealth individuals and individuals generally
2. The legal framework for disputes, including:
  - The model litigant rules
  - Real time compliance initiatives (i.e. annual compliance arrangements, pre-lodgment compliance reviews and the reportable tax position schedule)
  - Alternative dispute resolution
3. The governance framework for disputes, including:
  - Arrangements for and appropriate level of separation between compliance, investigation, objection and litigation functions
  - Comparisons with tax administration bodies overseas.

As part of the inquiry, the Committee will focus on small business and individuals generally and has requested the Inspector-General of Taxation (IGT) to conduct a formal review into tax disputes in relation to large business and high wealth individual taxpayers. In his review, the IGT may consider other themes, such as those relating to governance or legal frameworks.

The IGT issued a [press release](#) on 19 June 2014 inviting stakeholders to make submissions to his review of tax disputes within the large business and high wealth individuals segments. In addition to recommendations for improvements, the IGT is seeking examples of ATO approaches which have yielded positive outcomes. The IGT has also released [submission guidelines](#) which set out questions to assist in compiling the submission.

Submissions to the Committee inquiry are due on 4 July 2014. Submissions to the IGT are due by 18 July 2014.

Deloitte Lawyers will make a submission to the IGT's inquiry based on insights gained from our experience representing our large business clients in tax disputes. We hope to address all of our clients' concerns and recommendations in our submission. Should you wish to have your insights, concerns or recommendations on the large business tax disputes or legal or governance frameworks for disputes themes reflected in our submission, whether on a no-names basis or otherwise, we invite you to contact us by 11 July 2014. Please contact your Deloitte tax adviser or [Aldrin De Silva](#), Director, Deloitte Lawyers Pty Ltd (03 9671 7594) or [Zena Herr](#), Special Counsel, Deloitte Lawyers Pty Ltd (03 9671 7594).

**Tax administration transformation – reinventing the ATO:** On 18 June 2014, First Assistant Commissioner Steve Hamilton delivered a [speech](#) at the National Tax Practitioner Conference (on behalf of Second Commissioner Geoff Leeper), focusing on technological changes the ATO is making to support the taxation and superannuation systems.

In particular, a new technology, Standard Business Reporting (SBR), which is intended to be the successor to the current Electronic Lodgment System (ELS), was discussed. SBR software technology can read the financial data in a business accounting system, pre-fill forms with the required information while allowing the business or their adviser to check for accuracy, and then make the required data available to the ATO through a safe, secure online channel.

The ATO is in the process of creating the ability to update client information via SBR from July 2014, with address and financial institution elements being added by December 2014. The ATO will also be enabling the transmission of individual tax return data via SBR from January 2015.

The ATO is committed to making a fully SBR-enabled suite of forms and services available by July 2015 and removing ELS by Tax Time 2016.

**Common reporting standard for the automatic exchange of tax information (CRS) – discussion paper:** On 19 June 2014, the Government released a [discussion paper](#) on the implementation of the CRS in Australia. In particular, stakeholder views are sought on:

- Timing
- Financial institutions' potential implementation and compliance costs, and
- Suggestions on how to minimise the implementation and compliance costs.

Submissions on the discussion paper are due by 16 July 2014.

The CRS was [endorsed](#) by G20 Finance Ministers and Central Bank Governors at their meeting on 22 and 23 February 2014. The CRS provides a common international standard for:

- The collection of financial account information by financial institutions in participating jurisdictions on account holders who are residents in another jurisdiction
- The reporting of that information to the jurisdictions' tax authority
- The exchange of that information with the respective tax authorities of the non-residents.

**2014-15 – State Budgets:** The South Australian and New South Wales governments have both announced tax, duty and levy changes that could directly affect many businesses operating within their respective jurisdictions. Please see [State and Territory taxes](#) below for more detail.

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## *Weekly tax news*

### **Business tax**

**Company tax rate reduction and Paid Parental Leave (PPL) levy:** Further to this year's Federal Budget, from 1 July 2015 the Government is proposing to:

- reduce the company tax rate from 30% to 28.5%; and
- introduce the PPL levy on "large" companies.

At this stage, there is limited detail available on these proposals, and the Government will need to navigate its way through the new Senate taking its place from 1 July 2014. Notwithstanding those uncertainties, there are a number of matters that should be considered. Deloitte has produced a Q&A document to highlight the issues that companies should be considering as a result of these proposed changes. Companies and shareholders should start to consider the potential impacts of these changes on dividend distribution policies and capital management policies with a goal of maximising shareholder value. Click to view [Deloitte's Q&A document](#).

**Bills awaiting Royal Assent:** The following Bills passed the Senate last week and are currently awaiting Royal Assent:

- [Tax Laws Amendment \(Temporary Budget Repair Levy\) Bill 2014 and 14 related bills.](#)  
On 16 June 2014, the Senate Economic Legislation Committee released its [report](#) on these Bills and recommended that the Senate should pass the Bills
- [Tax Laws Amendment \(Implementation of the FATCA Agreement\) Bill 2014](#)
- [Tax and Superannuation Laws Amendment \(2014 Measures No. 2\) Bill 2014](#)
- [Tax and Superannuation Laws Amendment \(2014 Measures No. 3\) Bill 2014.](#)

**Bills introduced:** The following Bills were introduced into the House of Representatives last week:

- [Social Services and Other Legislation Amendment \(2014 Budget Measures No. 1\) Bill 2014](#) and [Social Services and Other Legislation Amendment \(2014 Budget Measures No. 2\) Bill 2014](#): These Bills implement a number of 2014-15 Federal Budget measures, including changes to Family Tax Benefit (FTB) Part A, FTB Part B and other social security entitlements. On 19 June 2014, these Bills were referred to the Senate Community Affairs Legislation Committee and a report is due by 4 September 2014
- [Carbon Farming Initiative Amendment Bill 2014](#): This Bill establishes the Emissions Reduction Fund. On 19 June 2014, this Bill was referred to the Senate Environment and Communications Legislation Committee and a report is due by 7 July 2014.

**Progress of Bill to repeal the Clean Energy Finance Corporation:** The [Clean Energy Finance Corporation \(Abolition\) Bill 2013 \[No. 2\]](#) was defeated at the second reading stage in the Senate and will no longer proceed.

**Committee report released on the repeal of the Australian Charities and Not-for-profits**

**Commission:** On 16 June 2014, the Senate Economics Legislation Committee released its [report](#) on the [Australian Charities and Not-for-profits Commission \(Repeal\) \(No. 1\) Bill 2014](#). The majority of the Committee recommended that the Senate should pass the Bill.

**Senate Select Committee report into the Abbott Government's Commission of Audit:** On 19 June 2014, this Senate Select Committee tabled its [final report](#) into the Abbott Government's Commission of Audit (the Commission). In particular, the report focuses on tax concessions available to taxpayers such as those available for superannuation contributions, capital gains tax (CGT) and negative gearing, private health insurance rebates and fringe benefits tax (FBT) purposes. The recommendations by the Senate Select Committee include:

- Greater transparency and scrutiny should be given to tax expenditure by including the *Tax Expenditure Statement* (TES) alongside direct expenditure measures in Budget Paper No. 2. This is because tax concessions can be classified as tax expenditure in the TES, treated as direct spending and included in the Federal Budget, or structural features of the tax system
- The Government white paper on tax reform should include a review of all Government tax expenditures and concessions
- The Government should provide a response to each of the recommendations by the Commission by 31 December 2014. The response should indicate whether the recommendation has been accepted by Government and when it will be implemented and where a recommendation has not been accepted, the Government should provide reasons.

**Taxation Ruling (TR) scheduled for release on 25 June 2014:**

- TR 2014/4: Effective life of depreciating assets (applicable from 1 July 2014).

**Taxation Determinations (TD) scheduled for release on 25 June 2014:**

- TD 2014/16: What is the improvement threshold for the 2014-15 income year under section 108-85 of the *Income Tax Assessment Act 1997* (ITAA 1997)?
- TD 2014/17: What is the car limit under section 40-230 of the ITAA 1997 for the 2014-15 financial year?

**Draft Law Administration Practice Statement (PS LA) scheduled for release on 26 June 2014:**

- PS LA 3624: Administration of the penalty imposed under section 284-75(3) of Schedule 1 to the *Taxation Administration Act 1953*.

**Administrative treatment for the Minerals Resource Rent Tax (MRRT) and associated**

**measures:** As part of its 2013 election commitments, the Government [announced](#) that it would abolish the MRRT as well as discontinue or rephase measures that were intended to be funded by the MRRT. On 13 November 2013, the [Minerals Resource Rent Tax Repeal and Other Measures Bill 2013](#) was introduced into the House of Representatives. This Bill contained measures including the repeal of the MRRT, repeal of the loss carry-back measure, revision of certain capital allowance concessions granted to small business and repeal the immediate deduction available for geothermal energy exploration and prospecting expenditure (for more information on the measures contained in the Bill, refer to [Tax highlights 18 November 2013](#)). On 25 March 2014, this Bill was defeated in the Senate. In the 2014-15 Federal Budget, the Government reaffirmed its intention to repeal the

Minerals Resource Rent Tax and other associated measures. (Note: *Minerals Resource Rent Tax Repeal and Other Measures Bill 2013[No.2]* has been introduced into the House of Representatives on 23 June). The ATO has released its administrative treatment in respect of certain of these measures, including the following:

- **Repeal of the MRRT:** The ATO has allowed low volume, non-paying entities until:
  - 1 December 2014 to lodge their 2012-13 MRRT returns and starting base returns
  - The later of 1 December 2014 and the first day of the sixth month after their 2013-14 MRRT year to lodge their 2013-14 MRRT returns
- **Company loss carry-back repeal:** Taxpayers who lodge a company tax return for the 2013-14 income year can self-assess under the existing law. However, once the law is enacted, the ATO will amend the company tax return to disallow the claim for the loss carry-back tax offset for the 2013-14 income year. This will result in an increase in the taxpayer's tax liability. No tax shortfall penalties will apply and any interest attributable to the shortfall will be remitted to nil
- **Accelerated initial deduction for motor vehicles:** Taxpayers who lodge a tax return for the 2013-14 income year can self-assess under the existing law. However, once the law is enacted, taxpayers who self-assessed in that way will need to seek an amendment to apply the new law. No shortfall penalty will apply and if taxpayers seek to amend their return within a reasonable time, the ATO will also remit the shortfall interest charge (SIC) to nil. If an amendment is not sought within a reasonable time, SIC will be charged from the date the change becomes law.

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## Employment taxes

**Appeals update – Qantas Airways:** The taxpayer and the Commissioner have each filed an appeal against the decision of the Administrative Appeals Tribunal (AAT) in *Qantas Airways Limited and Commissioner of Taxation [2014] AATA 316*. In that decision the AAT concluded that the taxpayer airline had incurred FBT liabilities associated with car parking facilities provided to its employees based at major airports during the 2007 to 2010 FBT years. In relation to car parking facilities provided by the taxpayer to employees based at Canberra Airport however, the AAT decided that FBT liabilities did not arise. The dispute centred on the meaning of "commercial parking station" under section 39A(1) and section 136(1) of the *Fringe Benefits Tax Assessment Act 1986*, with the taxpayer arguing that the public car parks at each of the airports did not meet the statutory definition. Details of the AAT's decision are reported in *Tax highlights 26 May 2014*.

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## Individuals and family groups

**Appeals update – Blank:** The taxpayer has lodged a notice of appeal to the Full Federal Court against the decision of the Federal Court in *Blank v Commissioner of Taxation (No 2) [2014] FCA 517*. In that case, the Federal Court refused the taxpayer's application for leave to re-open a case on the basis that his argument that section 23AG of the *Income Tax Assessment Act 1936* applied to exempt a portion of an amount from tax was weak. For a summary of the Federal Court decision, refer to *Tax highlights 26 May 2014*.

**Changes to the tax system for small business:** The Minister for Small Business has announced there will be administrative changes to PAYG instalments thresholds for small business. Small businesses that have no GST reporting requirements will no longer have to lodge a business activity statement and small businesses with modest or negative income that are required to lodge a BAS, will no longer have to interact with the PAYG instalment system.

Also proposed are changes to the thresholds in which the Commissioner will notify a taxpayer of an instalment rate (and therefore a requirement to pay PAYG instalments): These are currently at:

- \$2,000 or more of gross business and investment income on the last tax return (excluding any net capital gains) (this is proposed to increase to \$4,000)
- tax payable on the last assessed tax return is more than \$500 (this is proposed to increase to \$1,000)
- notional tax is more than \$250 (this is proposed to increase to \$500)

If taxpayers no longer meet the PAYG instalment thresholds they will be automatically exited from PAYG instalments. The ATO will write to each business and individual to withdraw their instalment rate. The announcement did not indicate when the proposed changes were to be effective.

**ATO area of focus this year - work-related deductions:** On 16 June 2014, the ATO issued a [media release](#) indicating that it will be focusing on work-related deductions claimed by individuals this tax time. The ATO stated that it would not limit its attention to particular occupations, but would instead focus on work-related expense claims relating to overnight travel, transporting bulky tools and equipment and the work-related proportion of use for computers, phones or other electronic devices. As well as these areas of focus, the ATO will continue to review incorrect or excessive claims for all other work-related expenses.

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## Indirect taxes

**Bills awaiting Royal Assent:** The following Bills passed the Senate last week and are currently awaiting Royal Assent:

- [Excise Tariff Amendment \(Product Stewardship for Oil\) Bill 2014](#)
- [Customs Tariff Amendment \(Product Stewardship for Oil\) Bill 2014](#).

**Bills introduced – CPI indexation of fuel tax:** On 19 June 2014 a package of four bills relating to the re-introduction of biannual indexation of fuel excise and excise-equivalent customs duties (fuel tax) was introduced into the House of Representatives. The [Excise Tariff Amendment \(Fuel Indexation\) Bill 2014](#) and the [Customs Tariff Amendment \(Fuel Indexation\) Bill 2014](#) amend the *Excise Tariff Act 1921* and the *Customs Tariff Act 1995* (Acts) respectively, to index the rate of fuel tax applying to fuels (other than aviation fuel, crude oil and condensate) by reference to the consumer price index. The amendments apply indexation to fuel tax on domestically manufactured and imported fuel with effect from 1 August 2014. Consequential amendments are also included to round the applicable fuel tax rate of indexed fuels from three decimal places in the cent to one decimal place. The [Fuel Indexation \(Road Funding\) Bill 2014](#) amends the *Fuel Tax Act 2006* to ensure that fuel tax credit claimants use the same indexed rate of fuel tax that was payable on the fuel for determining the amount of their fuel tax credits. The [Fuel Indexation \(Road Funding\) Special Account Bill 2014](#) amends the *Financial Management and Accountability Act 1997* to establish the Fuel Indexation

(Road Funding) special account effective from 1 July 2015, to ensure that the net additional revenue from the reintroduction of fuel tax indexation is used only for road infrastructure funding.

**Luxury Car Tax Determination (LCTD) issued:** The ATO has issued [LCTD 2014/2](#). This LCTD provides that the luxury car tax threshold for FY 2014-15 is \$61,884 (up from \$60,316 for FY 2013-14), and that the fuel-efficient car limit for FY 2014-15 is \$75,375 (unchanged from FY 2013-14).

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## State and Territory taxes

**NSW 2014-15 Budget:** The NSW Government announced the [2014-15 State Budget](#) on 17 June 2014. As part of the Budget, the following taxation-related measures were announced:

- **Abolition of the remaining Intergovernmental Agreement taxes**

Effective from 1 July 2016, stamp duty will be abolished on:

- the transfer of non-real business assets (e.g. IP, goodwill, patents), and statutory licences and permissions
- the transfer of unlisted marketable securities and commercial fishery shares
- non-residential (i.e. business) mortgages.

The Government is introducing anti-avoidance measures to prevent duty avoidance in anticipation of 1 July 2016.

- **Increased First Home Owner Grant (FHOG) cap**

From 1 July 2014, the FHOG cap for new homes will increase to \$750,000 (currently \$650,000).

- **Restriction on eligibility for the New Home Owners Grant (NHOG)**

From 1 July 2014, the \$5,000 NHOG will be:

- restricted to Australian citizens, permanent residents and Australian-owned bodies (i.e. corporations or bodies corporate that are at least 50% owned or controlled by persons who are Australian citizens or Australian residents)
- limited to one grant per financial year
- in relation to NHOG applications, no longer subject to time limits.

- **Repeal of payroll tax rebate for disability employment**

The *Payroll Tax Rebate Scheme (Disability Employment) Act 2011* (NSW) will be repealed with effect from 1 July 2014, subject to the continuation of rebate entitlements applying in respect of employment that started before the Act's repeal.

- **Mineral royalties: major change to administration**

From 1 July 2014, NSW mining royalties will be administered under the *Taxation Administration Act 1996 (NSW)*, with responsibility for the assessment and collection of mineral royalties being assumed by the Chief Commissioner of State Revenue.

These changes are subject to the passage of the [State Revenue and Other Legislation Amendment \(Budget Measures\) Bill 2014](#).

Other announcements included confirmation that the Government will reduce WorkCover premiums by 5%, and expansion of the State Revenue Office compliance activity program in relation to complex business and trust structures for stamp duty, payroll tax, land tax and mineral royalties.

**South Australia 2014-15 Budget:** The South Australian Government announced the [2014-15 State Budget](#) on 19 June 2014. The following taxation-related measures form part of the Budget:

- **Emergency Services Levy (ESL) changes**

Several ESL-related changes have been announced including:

- From 1 July 2014, the removal of the general remissions on the **fixed property** ESL for most property owners
- From 1 August 2014, the removal of the general remissions on the **mobile property** ESL for cars, large motorcycles and historic vehicles

- **Transport Development Levy**

The Government confirmed the commencement of the Transport Development Levy. The \$750 levy will apply to certain car park spaces in the Adelaide CBD with effect from 1 July 2014.

- **Grant for 'right-sizing' seniors**

A Seniors Housing Grant will be introduced for people 60 years and over, who 'right-size' their principal place of residence by buying a 'new' home to live in. To be eligible, the new home must be purchased under a contract entered into between 1 July 2014 and 30 June 2016 (or in the case of owner builders, the construction of the new home must have commenced between 1 July 2014 and 30 June 2016). A grant of \$8,500 will be available for new homes with a market value up to \$400,000, with a lesser, phased grant amount available for new homes with a market value of between \$400,000 and \$450,000.

- **Continuation of existing concessions**

The Government has confirmed that the following concession measures will continue during 2014-15:

- The payroll tax concession for eligible small to medium businesses (worth up to \$9,800)
- The stamp duty concession for purchases of eligible off-the-plan apartments in the inner Adelaide area.

The implementation of the Transport Development Levy and the Seniors Housing Grant are subject to the enactment of the [Budget Measures Bill 2014](#).

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