



Tax highlights

30 June 2014

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Key developments this week

Carbon tax and MRRT repeal bills re-introduced: The following Bills were re-introduced into the House of Representatives last week, after they were defeated at the second reading stage in the Senate earlier this year:

- **Clean Energy Legislation (Carbon Tax Repeal) Bill 2013 [No.2] and related Bills** (the carbon tax repeal bills)
- **Clean Energy (Income Tax Rates and Other Amendments) Bill 2013 [No. 2]**
- **Minerals Resource Rent Tax Repeal and Other Measures Bill 2013 [No. 2]** (MRRT repeal bill).

The Bills are identical to those originally introduced – for more details, refer to [Tax highlights 18 November 2013](#).

The majority of the carbon tax repeal bills and the MRRT repeal bill passed the House of Representatives on 26 June 2014 and will now move to the Senate. Also on 26 June 2014, the majority of the carbon tax repeal bills were referred to the Senate Environment and Communications Legislation Committee and a report is due by 14 July 2014. The [Clean Energy Finance Corporation \(Abolition\) Bill 2014](#) has not yet passed the House of Representatives and was not referred to a committee.

Note that the [Minerals Resource Rent Tax Repeal and Other Measures Bill 2013 \[No. 2\]](#) provides for the superannuation guarantee charge (SGC) percentage to stay at 9.25% from 1 July 2014 to 30 June 2016. This is contrary to the Government's 2014-15 Federal Budget [announcement](#) that the SGC percentage will increase to 9.5% on 1 July 2014 and remain at this level until 30 June 2018. This difference is highlighted in the table below:

Income years commencing	SGC percentage		
	Current law	MRRT repeal bill	2014-15 Budget announcement
1 July 2013	9.25%	9.25%	9.25%
1 July 2014	9.5%	9.25%	9.5%
1 July 2015	10%	9.25%	9.5%

1 July 2016	10.5%	9.5%	9.5%
1 July 2017	11%	10%	9.5%
1 July 2018	11.5%	10.5%	10%
1 July 2019	12%	11%	10.5%
1 July 2020	12%	11.5%	11%
1 July 2021	12%	12%	11.5%
1 July 2022 onwards	12%	12%	12%

However, during the [second reading speech](#) to re-introduce the MRRT repeal bill, the Parliamentary Secretary to the Treasurer announced that “further changes to the superannuation guarantee schedule, announced in the budget, will be introduced as an amendment to this bill”. It is understood that amendments to the MRRT repeal bill were cleared for introduction into Parliament at the Coalition Joint Party Room meeting on 24 June 2014, but have yet to be introduced.

The Senate will resume sittings on 7 July 2014. On 14 July 2014, both the House of Representatives and the Senate will resume for the last week of the Winter sittings. Parliament is scheduled to return for the 2014 Spring Sittings on Tuesday, 26 August 2014.

ATO releases 2014-15 PAYG tax tables and taxation ruling (TR) on effective life of depreciating assets:

- **2014-15 PAYG tax tables:** The ATO has updated its pay-as-you-go (PAYG) [tax tables](#) for 2014-15 to help businesses calculate how much to withhold from payments to their employees and other payees. These tables have been updated to incorporate the increase to the Medicare levy and the introduction of the Temporary Budget Repair levy and will apply for payments from 1 July 2014
- **TR on the effective life of depreciating assets:** Taxpayers have the option to choose to use the Commissioner's determination of the effective life of a depreciating asset or make their own estimate. Each year the Commissioner releases by ruling his estimate of effective lives for this purpose, split into industry categories or asset categories. The ruling for the 2014-15 year, [TR 2014/4](#), was released last week and sets out the Commissioner's determination of effective life of certain depreciating assets from 1 July 2014.

Customs seeking industry input on Trusted Trader Programme: The Australian Customs and Border Protection Service (Customs) is developing a [Trusted Trader Programme](#) (TTP). Among other things, the TTP is intended to provide trade facilitation benefits to importers, exporters and other participants in the international trade supply chain with strong security practices and a history of compliant behaviour. The TTP is currently proposed to commence in July 2015 (export scheme), with the import scheme commencing soon after.

Customs has published a [discussion paper](#) to initiate discussion with industry about the core features and proposed design of the TTP. Customs has indicated that it welcomes any feedback about the fundamental principles and core concepts proposed for the TTP (no deadline specified), and that it will also be engaging with its partner agencies and industry as it undertakes the process of 'co-designing' the TTP.

Customs is also inviting interested parties to complete a brief survey (10 questions) about the TTP, by

Friday, 4 July 2014. The survey can be completed [online](#) or found on pages 10-12 of the industry discussion paper.

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Weekly tax news

Business tax

Bills receive Royal Assent: The following Bills received Royal Assent last week:

- [Tax Laws Amendment \(Temporary Budget Repair Levy\) Bill 2014 and 14 related bills.](#)

Bills on the move: The following Bills were passed by the House of Representatives last week and were introduced into the Senate:

- [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](#)
- [Carbon Farming Initiative Amendment Bill 2014.](#)

For more information on the measures contained in these bills, see [Tax highlights 23 June 2014](#).

Taxation Determinations (TDs) released:

- [TD 2014/16](#): The improvement threshold for the 2014-15 income year is \$140,443. The improvement threshold is used to determine when a capital improvement is a separate asset for the purposes of the capital gains tax (CGT) provisions (section 108-70 of the *Income Tax Assessment Act 1997* (ITAA 1997)) and whether a roll-over may be available for capital improvements to CGT assets for the purposes of section 108-75 of the ITAA 1997
- [TD 2014/17](#): The car limit under section 40-230 of the ITAA 1997 for the 2014-15 financial year is \$57,466. This car limit is used, amongst other things, for the purposes of working out the first element of cost of certain cars for the purposes of the capital allowances provisions.

Draft Practice Statement Law Administration (PS LA) released on penalties relating to statements:

- [PS LA 3624](#): This draft practice statement provides guidance to ATO personnel on:
 - The circumstances in which an entity becomes liable to a penalty imposed under section 284-75(3) of Schedule 1 to the *Taxation Administration Act 1953* (that is, an administrative penalty for failing to give a return, notice or other document to the Commissioner by the due date for lodgment), and
 - How the penalty is assessed, including remission.

Comments on the PS LA are due on 23 July 2014.

TD scheduled for release on 2 July 2014:

- [TD 2014/18](#): 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? This TD was previously issued as [TD 2014/D8](#)

White paper on Reform of the Federation – Terms of Reference: On 28 June 2014, the Government [released](#) the Terms of Reference for the White paper on the Reform of the Federation which will be closely aligned with the White paper on the Reform of Australia's Tax System. The White Paper will seek to clarify roles and responsibilities to ensure that, as far as possible, the States and Territories are sovereign in their own sphere. Issues papers will be released in the second half of 2014. The Green Paper will be released in the first half of 2015 and the White Paper by the end of 2015.

Carbon Abatement Contract – exposure draft (ED): On 27 June 2014, the Clean Energy Regulator [released](#) an ED of the Carbon Abatement Contract to be used for the Emissions Reduction Fund, and an accompanying discussion paper. The contract is to be used to purchase Kyoto Australian carbon credit units from successful bidders in Emissions Reduction Fund auctions. The discussion paper explores key aspects of the contract and seeks comments. Submissions are due by 18 July 2014.

External Compliance Assurance Process (ECAP) – information on the ATO website: The objective of ECAP is to provide quicker certainty to taxpayers by offering them the choice of nominating their statutory company auditor to undertake assurance work for the ATO in relation to factual matters. The ATO has now released [information](#) on the ECAP on its website, including the key test principles for the ECAP pilot program, together with guidance material for assurance practitioners when conducting agreed-upon procedures engagements under the pilot program.

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[Individuals and family groups](#)

Increases to PAYG instalments thresholds from 1 July 2014: As reported in last week's [Tax highlights](#), the Minister for Small Business announced that there will be administrative changes to PAYG instalments entry and exit thresholds. The ATO has now [advised](#) that these changes will take effect from 1 July 2014. The entry and exit thresholds for:

- Gross business or investment income will increase from \$2,000 to \$4,000
- Tax payable on the last assessment will increase from \$500 to \$1,000
- Notional tax will increase from \$250 to \$500.

There will no longer be a requirement for entities registered for goods and services tax (GST) to remain in the system if they have a zero instalment rate. Taxpayers who no longer meet the entry rules will be automatically exited from the PAYG instalments system.

Appeals update – Commissioner of Taxation & Darling: The taxpayer has lodged an application for special leave to appeal to the High Court against the Full Family Court decision in [Commissioner of Taxation & Darling \[2014\] FamCAFC 59](#). The Full Family Court set aside the Family Court decision in [Commissioner of Taxation & Darling and Anor \[2013\] FamCA 118](#) and allowed the Commissioner to obtain documents in a husband and wife's Family Court proceedings in relation to an audit of the husband's affairs.

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Indirect taxes

Bills on the move: The following Bills were passed by the House of Representatives last week and have now moved to the Senate:

- [Excise Tariff Amendment \(Fuel Indexation\) Bill 2014](#) and [Customs Tariff Amendment \(Fuel Indexation\) Bill 2014](#)
- [Fuel Indexation \(Road Funding\) Bill 2014](#)
- [Fuel Indexation \(Road Funding\) Special Account Bill 2014](#).

On 19 June 2014, these Bills were referred to the Senate Economics Legislation Committee and a report is due by 7 July 2014.

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International tax

Australia/Switzerland revised tax treaty – exposure draft legislation: The revised [Australia/Switzerland tax treaty](#) was publicly released last year. [ED legislation](#) and an accompanying draft explanatory memorandum (EM) were only recently released (4 June 2014). Some of the key points in respect of the new treaty are as follows:

1. The revised Swiss tax treaty is not a “post-BEPS” treaty. The bulk of the treaty re-negotiations happened in 2011, prior to the [OECD Action Plan](#) and key announcements under the OECD’s BEPS project. It will be interesting to observe the details of future tax treaties that Australia enters into as we would expect that these will be more heavily influenced by the BEPS debate and the outcomes of [BEPS Action 6: Prevent treaty abuse](#).
2. Notwithstanding the above comment, a general anti-treaty abuse rule has been included. This provides that the benefits of the treaty shall not apply if:
 - a. it was one of the principal purposes of any person concerned with a transaction in respect of which income is paid, or
 - b. a person has become a resident of a contracting State to take advantage of the treaty.

A provision similar to (a) above can be found in the dividends, interest and royalty articles of some of Australia’s more recent tax treaties, however, this is the first time that Australia has included such a comprehensive anti-treaty abuse rule in its tax treaties.

3. The revised treaty expressly includes provisions dealing with superannuation funds and Swiss pension funds. Under the revised Swiss tax treaty, Australian superannuation funds will clearly be recognised as residents for the purposes of the treaty. Further, Australian superannuation funds will now be exempt from Swiss interest withholding tax and exempt from Swiss dividend withholding tax on (broadly) less than 10% equity investments.
4. The above exemptions from interest and dividend withholding tax are also expressly available to the Australian Future Fund, as well as “the Building Australia Fund, the Education Fund and the Health and Hospitals Fund, as well as any similar fund the purpose of which is to pre-fund future [Australian] government liabilities”. This is similar to the

treatment under the New Zealand treaty.

If you have any questions, please contact your Deloitte tax adviser, or [Isabelle Mac Innes](#), Account Director, National Tax (02 9322 7457).

Joint Standing Committee on Treaties interim report on Australia-US FATCA IGA: On 23 June 2014, the Joint Standing Committee on Treaties [tabled](#) its [interim report](#) on the [Australia-US intergovernmental agreement](#) (IGA) to improve international tax compliance and to implement the US Foreign Account Tax Compliance Act (FATCA). The Committee supports the IGA and recommends that binding treaty action be taken. The Committee is expected to table a full report of its inquiry in due course.

Project DO IT – ATO data mining program: The ATO has [announced](#) they are currently mining data to identify individuals with undisclosed offshore income and assets and will use this data to encourage taxpayers to disclose under Project DO IT. The ATO is currently examining the following data:

- Information from overseas tax authorities on Australians with offshore investments and bank accounts
- Information from Australian and foreign banks on fund flows
- Interest and account balances and
- Information from informants about offshore accounts and money transfers to and from offshore bank accounts.

Under Project DO IT, taxpayers disclosing their offshore assets will generally be assessed for the last four years, be liable for a maximum shortfall penalty of 10% and full shortfall interest charges, and will not be investigated by the ATO or referred for criminal investigation on the basis of their disclosures. Project DO IT closes on 19 December 2014.

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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