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## Monthly Legislative Update

Bills of interest currently before Parliament (as at 15 January 2010)

If you click any of the hyperlinks below, click the “Permalink” icon in the top right hand corner of the screen you are taken to, to avoid being “timed out” out of the system – if you continue to have problems with the website, simply go to <http://www.aph.gov.au/bills/index.htm>, and click on “Bills before Parliament”.

### **Fairer Private Health Insurance Incentives (Medicare Levy Surcharge) Bill 2009 [No. 2]**

Part of a package of three bills to effect three private health insurance tiers, the bill amends the *Medicare Levy Act 1986* to increase the rate of Medicare levy surcharge for certain taxpayers who do not have complying health insurance and whose income for surcharge purposes is above the relevant Medicare levy surcharge threshold.

### **Fairer Private Health Insurance Incentives (Medicare Levy Surcharge—Fringe Benefits) Bill 2009 [No. 2]**

Part of a package of three bills to effect three private health insurance tiers, the bill amends the *A New Tax System (Medicare Levy Surcharge—Fringe Benefits) Act 1999* to increase the rate of Medicare levy surcharge for taxpayers who do not have complying health insurance and whose income (including reportable fringe benefits) for surcharge purposes is above the relevant Medicare levy surcharge threshold.

### **Fairer Private Health Insurance Incentives Bill 2009 [No. 2]**

Part of a package of three bills to effect three private health insurance tiers, the bill amends the *Income Tax Assessment Act 1936*, *Income Tax Assessment Act 1997*, *Private Health Insurance Act 2007*, *Taxation Administration Act 1953* and *Taxation (Interest on Overpayments and Early Payments) Act 1983* to reduce the amount of private health insurance rebate eligible taxpayers with complying private health insurance are entitled to when their income for surcharge purposes is above the relevant Medicare levy surcharge threshold.

### **Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2009 Measures) Bill 2009**

Amongst other things, this Bill amends the *Social Security (Administration) Act 1999* to enable people in Cape York who receive age pension or carer payments to have their payments income managed and make changes to the treatment of residual balances when a person again become subject to income management, or dies; *A New Tax System (Family Assistance) (Administration) Act 1999*, *Child Support (Registration and Collection) Act 1988* and *Social Security (Administration) Act 1999* in relation to the administrative functions of the Social Security Appeals Tribunal; *Social Security Act 1991* to clarify that a gift that has been returned does not have to be assessed as a deprived asset for the purposes of the social security assets test; *Social Security Act 1991* and *Veterans' Entitlements Act 1986* to clarify the requirements for an individual to pass the control test in relation to a controlled private trust; and *A New Tax System (Family Assistance) (Administration) Act 1999* to require notification within 26 weeks to be given when a child for whom baby bonus is paid leaves an individual's care.

### **International Tax Agreements Amendment Bill (No. 2) 2009**

This Bill amends the: *International Tax Agreements Act 1953* to give legislative effect to: the 2009 Convention between Australia and New Zealand for the Avoidance of Double Taxation with Respect to Taxes on Income and Fringe Benefits and the Prevention of Fiscal Evasion ; the Second Protocol amending the Agreement between Australia and the Kingdom of Belgium for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income ; and the Agreement between the Government of Australia and the Government of Jersey for the Allocation of Taxing Rights

with Respect to Certain Income of Individuals and to Establish a Mutual Agreement Procedure in Respect of Transfer Pricing Adjustments ; and *Income Tax Assessment Act 1997* to align the definition of dual listed company arrangements with the 2009 Australia-New Zealand Convention.

### **Tax Laws Amendment (2009 GST Administration Measures) Bill 2009**

This Bill makes amendments in relation to:

- the requirement that input tax credits and fuel tax credits are claimed within a four year period;
- enabling residents of Australian external territories to claim refunds of good and services tax (GST) and wine equalisation tax under the tourist refund scheme;
- enabling certain intermediaries to act as a principal for GST accounting purposes;
- the calculation of the gambling operator's margin when the supplies made by the operator are GST-free;
- the treatment of supplies and acquisitions between associates without consideration; and
- the treatment of overpaid refunds.

### **Tax Laws Amendment (2009 Measures No. 6) Bill 2009**

This Bill amends the:

- *Income Tax Assessment Act 1997* to remove the CGT trust cloning exception; provide a limited capital gains tax roll-over for the transfer of certain assets between trusts with the same beneficiaries; allow the roll-over of capital losses and transfer of revenue losses when complying superannuation funds merge; and update the list of deductible gift recipients;
- *Income Tax Assessment Act 1997*, *Tax Laws Amendment (2006 Measures No. 2) Act 2006* and *Superannuation Legislation Amendment (Simplification) Act 2007* to clarify the circumstances in which income derived by life insurance companies in respect of immediate annuity business qualifies as non-assessable non-exempt income;
- *Income Tax Assessment Act 1936* and *Income Tax Assessment Act 1997* to provide that the Income Recovery Subsidy for the North Western Queensland floods is not subject to income tax; and
- *Excise Act 1901* to provide that the blending of spirits constitutes excise manufacture.

### **Tax Laws Amendment (Confidentiality of Taxpayer Information) Bill 2009**

This Bill amends the *Taxation Administration Act 1953* to establish a framework to protect the confidentiality of taxpayer information by placing a general prohibition on the disclosure of taxpayer information except in certain specified circumstances; makes consequential amendments to 39 Acts; contains a regulation making power; and repeals the *A New Tax System (Bonuses for Older Australians) Act 1999*.

### **Tax Laws Amendment (Improving the Producer Offset) Bill 2009 (Introduced by Mr Ciobo — LP)**

This Bill amends the *Income Tax Assessment Act 1936* and *Income Tax Assessment Act 1997* to specify the criteria the Commissioner of Taxation must consider when making a special assessments decision in relation to the producer offset.

## Bills that have received royal assent

### **Tax Agent Services (Transitional Provisions and Consequential Amendments) Act 2009**

Consequent on the Tax Agent Services Act 2009, this Act amends eight Acts; and provides for transitional arrangements for certain entities providing tax agent services before the commencement of the Tax Agent Services Act 2009.

### **Tax Laws Amendment (2009 Measures No. 5) Act 2009**

This Act amends the:

- *A New Tax System (Goods and Services Tax Act) 1999, Fuel Tax Act 2006 and Taxation Administration Act 1953* in response to the Federal Court decision in *Deputy Commissioner of Taxation v PM Developments Ltd* to confirm that a representative of an incapacitated entity is responsible for the GST consequences arising during its appointment;
- *Taxation Administration Act 1953* to change the basis on which a pay as you go instalment liability is calculated;
- *Income Tax Assessment Act 1997* to: provide that the outer regional and remote payment made under the Helping Children with Autism package is exempt from income tax; and provide that payments made under the Continence Aids Payment Scheme are exempt from income tax; and
- *Income Tax Assessment Act 1936* to exempt Commonwealth debt issued in Australia from interest withholding tax. Also enables the Victorian Bushfire Appeal Fund Independent Advisory Panel to use donations for a broader range of purposes than the tax law considers charitable and makes consequential amendments to the *Income Tax Assessment Act 1997*.

### **Tax Laws Amendment (2009 Budget Measures No. 2) Act 2009 and Income Tax (TFN Withholding Tax (ESS)) Act 2009**

These Acts include amendments affecting the taxation of employee share schemes, the non-commercial losses rules, and the treatment of lost superannuation.

In particular, the Bills propose to reform **the taxation of employee share schemes ('ESS')** by:

- replacing Division 13A of Part III of the ITAA 1936 with new Division 83A of the ITAA 1997; and
- inserting new Subdivision 14-C in Schedule 1 to the *Taxation Administration Act 1953* ('TAA 1953') dealing with the employee share scheme withholding tax and new Division 392 in Schedule 1 to the TAA 1953 dealing with employee share scheme reporting.

Some key amendments proposed in relation to the taxation of ESS discounts include the following:

- (a) Upfront taxation of the ESS discount is the default position;
- (b) Deferral of tax on the ESS discount will generally be limited to schemes which require that any benefits provided are at real risk of forfeiture and meet certain other conditions, or which are provided through a salary sacrifice arrangement offering no more than \$5,000 worth of benefits to an employee and certain other conditions are met;
- (c) Employees with a taxable income (after adjustments) of \$180,000 or less will receive the upfront concession and not pay tax on the first \$1,000 of discounts received, if the scheme meets certain conditions;
- (d) Where tax is deferred, the taxing point is the earliest of the following:
  - when there is no risk of forfeiture and any restrictions on sale or exercise are lifted;
  - when the employee ceases employment; or
  - seven years after the shares or rights were acquired;

- (e) An employee is eligible for a refund of tax on forfeited shares and rights if the forfeiture was not the result of a choice of the employee (except a choice to leave employment) or a condition of the scheme that protects the employee against a fall in market value;
- (f) Employers are subject to annual reporting requirements which will enable the Commissioner to conduct data matching activities and pre-fill tax returns to assist employees with their tax obligations; and
- (g) A limited form of withholding tax applies in cases where an employee fails to provide their employer with a TFN or ABN at the taxing point.

The proposed changes apply to shares, rights and stapled securities acquired on and after 1 July 2009.

Note that the Government issued an addendum to the Explanatory Memorandum accompanying [Tax Laws Amendment \(2009 Budget Measures No. 2\) Bill 2009](#) which explains the review rights of a taxpayer in relation to the Commissioner's discretion under the non-commercial losses rules.

Broadly, the addendum states that the Commissioner's exercise of a discretion under the non-commercial losses rules (including a decision not to exercise the discretion) is a matter leading up to or forming part of the making of an income tax assessment. It also states that all decisions leading up to or forming part of the making of the assessment are subject to a formal review process which includes internal review and external reviews by either the AAT or the Federal Court.

### **Tax Laws Amendment (Resale Royalty Right for Visual Artists) Act 2009**

Complementary to the *Resale Royalty Right for Visual Artists Bill 2009*, this Act amends the *Income Tax Assessment Act 1997*, *Income Tax (Transitional Provisions) Act 1997* and *Taxation Administration Act 1953* to provide that the resale royalty collecting society is not taxed on amounts it collects on behalf of resale royalty right owners.

## Other legislative developments

### Draft Legislation

#### **GST Administration - Input Tax Credit Attribution and Third Party Adjustments: Exposure Draft Legislation and Explanatory Memoranda**

On 14 December 2009 further exposure draft legislation and exposure draft memoranda was released for public consultation to implement the following announced measures:

- clarifying the input tax credit attribution rules; and
- introducing GST adjustments for third party payments.

#### **Superannuation Clearing House - Exposure Draft of Legislation and Associated Explanatory Material**

In the 2008/09 Budget the Government announced the measure to provide a free superannuation clearing house service for small businesses. The measure is designed to reduce the cost to small businesses of complying with their superannuation obligations. On 6 November 2009, the Government announced that the free superannuation clearing house service for small businesses will be delivered through Medicare Australia.

The draft legislation amends the *Superannuation Guarantee (Administration) Act 1992*, the *Retirement Savings Accounts Act 1997* and the *Superannuation Industry (Supervision) Act 1993* to:

- allow employers to meet their obligation to make compulsory superannuation contributions for the benefit of their employees by paying to an approved clearing house;
- extend the conditions under which superannuation contributions by an employer for the benefit of an employee are made in compliance with the choice of fund requirements to cover circumstances where contributions are made through an approved clearing house; and

- allow an employer to satisfy its obligation in relation to the prompt remittance of superannuation amounts deducted from an employee's salary or wages by making payments to an approved clearing house.

### **Exposure Draft - Minor Amendments to Tax Laws**

The exposure draft and draft explanatory memorandum relate to proposed minor amendments to the taxation laws, which seek to ensure the law operates as intended, by correcting technical or drafting defects, removing anomalies and addressing unintended outcomes. The amendments also include minor improvements to the tax laws.

Some of the amendments address issues raised through the Tax Issues Entry System (TIES). The TIES website ([www.ties.gov.au](http://www.ties.gov.au)), operated jointly by the Australian Taxation Office and Treasury, provides a vehicle for tax professionals and the general public to raise issues relating to the care and maintenance of the tax system.

The more significant amendments are:

- ensuring that a replacement dwelling that is eligible for the compulsory acquisition roll-over is treated as a continuation of the original dwelling for CGT main resident exemption purposes, with application to CGT events happening on or after the day this Bill receives Royal Assent;
- correcting an unintended effect on the operation of the small business CGT retirement exemption made by the *Superannuation Legislation Amendment (Simplification) Act 2007* which inadvertently made payments, or parts thereof, that a trust makes under the retirement exemption to a CGT concession stakeholder subject to CGT event E4 (contained in S.104-70 of the Income Tax Assessment Act 1997 (ITAA 1997));
- enabling the Commissioner to waive tax-related liabilities, in appropriate cases to facilitate proceedings under the *Proceeds of Crime Act 2002* (POC Act);
- extending the administrative penalty for making a false or misleading statement to cover statements that do not produce a shortfall in tax; and
- clarifying that the hypothetical dividend a capital benefit is compared to, in working out whether there is a tax benefit, is an assessable dividend.

### **Managed Investment Trusts: Capital Account Treatment Legislation and Explanatory Material**

This exposure draft legislation proposes changes to the taxation of gains and losses on disposal of certain investments by Australian MITs, as announced in the 2009/10 Budget. The legislation provides certainty as to the taxation of disposal of shares, units and certain land investments by eligible MITs.

Broadly, the changes will allow an eligible MIT to irrevocable elect capital account treatment for gains and losses on disposal of certain investments with effect from the 2008-09 income year. If an eligible MIT does not elect capital account treatment, then gains and losses on disposals of shares and units will be treated on revenue account.

### **Income Test for the Entrepreneurs' Tax Offset**

As part of the 2008/09 Budget the Government announced that it would introduce an income test into the eligibility criteria for the Entrepreneurs' Tax Offset (ETO) to reduce the offset that could be claimed by those taxpayers with other significant sources of income (income not referable to the relevant small business).

In the 2009/10 Budget the Government deferred the income test's start date from 1 July 2008 to 1 July 2009 to ensure that the proposed income test commences at the same time as, and is consistent with, the Government's broader means testing reforms, also announced in the 2008/09 Budget.

Draft legislation to introduce an income test into the eligibility criteria for the ETO, together with explanatory material, is available for public comment.

### **Tax Laws Amendment (Foreign Source Income Deferral) Bill (No. 1) 2010**

On 18 December 2009, the Assistant Treasurer released for public consultation the exposure draft legislation that will give effect to the decision to repeal the foreign investment fund (FIF) and deemed present entitlement (DPE) rules.

The repeal of the FIF and the DPE rules was announced in the 2009/10 Budget as part of wider reforms to Australia's foreign source income anti-tax-deferral (attribution) rules.

Remaining reforms to the controlled foreign company, transferor trust rules and the anti-roll-up rule are still being developed.

### **The New Research and Development Tax Incentive - Exposure Draft Legislation and Explanatory Materials**

Exposure draft legislation and explanatory materials for the new R&D tax incentive were released for public comment on 18 December 2009.

The Government intends to introduce legislation to implement the new scheme into the Parliament in early 2010.

### **Forestry Managed Investment Scheme Amendments: Exposure Draft Legislation and Explanatory Material**

The Assistant Treasurer, Senator the Hon Nick Sherry, has released exposure draft legislation, and associated explanatory material, on the proposed changes to the four year holding period rule for forestry managed investment schemes (MIS).

The exposure draft legislation amends the four year holding period rule for forestry MIS, as announced by the Assistant Treasurer on 21 October 2009.

### **Tightening the Non-Commercial Loan Rules and Explanatory Material**

The Assistant Treasurer has released for public consultation the Government's exposure draft legislation and explanatory material, on changes to tighten the non-commercial loan rules in Division 7A of the ITAA 1936, as announced in the 2009/10 Budget.

The exposure draft legislation proposes changes that will prevent shareholders and their associates from avoiding tax on distributions and benefits they receive from private companies.

Broadly, the changes will extend the meaning of payment to include a lease, licence or other right to use an asset (other than a transfer of property which is already covered).

The changes will also make a number of other technical amendments to strengthen the non-commercial loan rules to ensure that they operate in accordance with their original policy intent and that they cannot be circumvented by the use of a corporate limited partnership.

### **Consultation Paper: Reform of the Controlled Foreign Company Rules**

On 5 January 2010, the Assistant Treasurer announced the release of a consultation paper entitled: Reform of the Controlled Foreign Company Rules.

The reform of the controlled foreign company (CFC) rules was announced in the 2009/10 Budget as part of wider reforms to Australia's foreign source income anti-tax deferral attribution rules. The remaining reforms repeal the foreign investment fund (FIF) and deemed present entitlement (DPE) rules and modernise the transferor trust rules.

This consultation paper has been prepared to elicit comment on the high-level design of the taxation laws that will reform the CFC rules.

Henry Review

**Government Receives the Australia's Future Tax System Review**

The Government has received the report of the Australia's Future Tax System review team (the “Henry Review”).

“The report will provide the foundations for a long-term plan for reform, to make our tax and transfer systems fairer, simpler and more competitive.”

“As I have been saying for some time, the Government will consider the review and release it in early 2010, along with an initial response.

“The Government will not be engaging in speculation about the contents of the report before that time.”

*Ref: Treasurer’s Press release No.125, 23 December 2009*

## Monthly Rulings Update

The following lists the Rulings, Determinations, Practice Statements and Interpretative Decisions (and other related documents) issued by the ATO between 16 November 2009 to 15 January 2010.

### Rulings

#### Class Rulings

<a href="#">CR 2009/64</a>	Income tax: employment termination payment: New South Wales Lotteries Corporation	18 November 2009
<a href="#">CR 2009/65</a>	Income tax: CSIRO - National Indigenous Study Awards	18 November 2009
<a href="#">CR 2009/66</a>	Income tax: amendment of terms of Reset Exchangeable Securities and Preference Shares: Insurance Australia Group Limited	18 November 2009
<a href="#">CR 2009/67</a>	Fringe benefits tax: health services provided by Good Health Solutions Pty Ltd	25 November 2009
<a href="#">CR 2009/68</a>	Income tax: payments received under the New South Wales Private Native Forestry Industry Assistance Program: Business Exit Assistance	25 November 2009
<a href="#">CR 2009/69</a>	Income tax: early retirement scheme - Port Waratah Coal Services Limited	25 November 2009
<a href="#">CR 2009/70</a>	Income tax: Australia and New Zealand Banking Group Limited - allotment of convertible preference shares (CPS 2)	2 December 2009
<a href="#">CR 2009/71</a>	Income tax: payments made under the BHP Billiton Boodarie Iron Plant - Worker Support Program	2 December 2009
<a href="#">CR 2009/72</a>	Income tax: payments made under the EG Green & Sons, Harvey - Worker Support Program	2 December 2009
<a href="#">CR 2009/73</a>	Income tax: proposed Final Capital Return: eircom Holdings Limited	9 December 2009
<a href="#">CR 2009/74</a>	Income tax: return of capital: Biota Holdings Limited	16 December 2009
<a href="#">CR 2009/75</a>	Income tax: early retirement scheme - Mercedes-Benz Australia/Pacific Pty Ltd	16 December 2009
<a href="#">CR 2009/76</a>	Income tax: Victorian Department of Education and Early Childhood Development	16 December 2009
<a href="#">CR 2009/77</a>	Income tax: NSW Department of Environment, Climate Change and Water - Biodiversity Banking and Offsets Scheme	23 December 2009
<a href="#">CR 2009/78</a>	Income tax: Commonwealth Bank of Australia - Perpetual Exchangeable Resaleable Listed Securities	23 December 2009
<a href="#">CR 2010/1</a>	Income tax: treatment of payments received under the Murrumbidgee Catchment Management Authority Lower Murrumbidgee EcoTender program	13 January 2010

#### Product Rulings

<a href="#">PR 2009/58</a>	Income tax: FEA Plantations Project 2010 - EcoAsh Woodlot option	25 November 2009
<a href="#">PR 2009/59</a>	Income tax: FEA Plantations Project 2010 - EcoAshclear Woodlot option	25 November 2008
<a href="#">PR 2009/60</a>	Income tax: FEA Plantations Project 2010 - Blended Woodlot (Upfront contribution option)	25 November 2009
<a href="#">PR 2009/61</a>	Income tax: FEA Plantations Project 2010 - Blended Woodlot (Annual contribution option)	25 November 2009

## Taxation Rulings

[TR 2009/List](#) Income tax and other taxes: Determinations, Rulings, notices of withdrawal, addendum and erratum issued in 2009 23 December 2009

## Goods and Services Tax Rulings – Notices

[GSTR 2002/5DAW - Draft Addendum Withdrawal](#) Goods and services tax: when is a 'supply of a going concern' GST-free? 16 December 2009

## Wine Equalisation Tax Rulings – Notices

[WETR 2002/1A - Addendum](#) Wine equalisation tax: the WET rulings system 23 December 2009

## Draft Rulings

### Draft Taxation Rulings

[TR 2009/D6](#) Income tax: the interaction of Division 820 of the Income Tax Assessment Act 1997 and the transfer pricing provisions in relation to costs that may become debt deductions, for example, interest and guarantee fees 16 December 2009

[TR 2009/D8](#) Income tax: Division 7A loans: trust entitlements 16 December 2009

### Draft Miscellaneous Taxation Rulings

[MT 2009/D1](#) Miscellaneous tax: restrictions on GST refunds under section 105-65 of Schedule 1 to the Taxation Administration Act 1953 16 December 2009

## Determinations

### Taxation Determinations

[TD 2009/20](#) Income tax: where the net income of a partnership (determined in accordance with section 90 of the Income Tax Assessment Act 1936) includes Foreign Investment Fund (FIF) income, will an Australian resident taxpayer which is assessable on its share of the net income under section 92 be entitled to a FIF exemption under subsection 519B(2) of that Act for any relevant proportion of their share of the partnership's net income? 16 December 2009

[TD 2009/21](#) Income tax: to obtain a deduction under section 25-90 of the Income Tax Assessment Act 1997 for a cost in relation to a debt interest does the taxpayer have to actually derive a dividend to which section 23AJ of the Income Tax Assessment Act 1936 applies in the same income year as that in which the cost is incurred? 16 December 2009

[TD 2009/22](#) Income tax: value of goods taken from stock for private use for the 2009-10 income year 23 December 2009

## Taxation Determinations – Notices

<a href="#">TD 2007/D20W - Notice of Withdrawal</a>	Income tax: where there is no excess debt under Division 820 of the Income Tax Assessment Act 1997, can the transfer pricing provisions apply to adjust the pricing of costs that may become debt deductions, for example, interest and guarantee fees?	16 December 2009
<a href="#">TD 2004/2W</a>	Income tax: capital gains: is reflection in the 'value' of an asset sufficient to constitute reflection in its 'state' or 'nature' for the fourth element of cost base and reduced cost base (subsections 110-25(5) and 110-55(2) of the Income Tax Assessment Act 1997 and what are the implications of this issue for a shareholder that makes a non-scrip share capital contribution to a company?	13 January 2010

## Goods and Services Tax Determinations

<a href="#">GSTD 2009/D2</a>	Goods and services tax: are there GST consequences where a land owner engages the services of an associate to arrange construction of residential premises for lease under an arrangement described in Taxpayer Alert TA 2009/5?	16 December 2009
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## Draft Determinations

### Draft Taxation Determinations

<a href="#">TD 2009/D17</a>	Income tax: treaty shopping - can Part IVA of the Income Tax Assessment Act 1936 apply to arrangements designed to alter the intended effect of Australia's International Tax Agreements network?	16 December 2009
<a href="#">TD 2009/D18</a>	Income tax: can a private equity entity make an income gain from the disposal of the target assets it has acquired?	16 December 2009

## Practice Statements

<a href="#">PS LA 3187 (draft)</a>	A practical 'rule of thumb' approach for the transfer pricing of interest payable by a taxpayer on a cross-border related party loan. To explain the rule of thumb approach and to guide staff in its application	17 December 2009 (replaces 16 December 2009 version which was published in error)
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## Taxpayer Alerts

<a href="#">TA 2009/17</a>	Life insurance bonds issued by tax haven entities	23 November 2009
<a href="#">TA 2009/18</a>	Discretionary Option Arrangement	8 December 2009
<a href="#">TA 2009/19</a>	Uncommercial offshore superannuation trusts	15 December 2009
<a href="#">TA 2009/20</a>	Interest deduction generators involving promoter controlled companies	22 December 2009
<a href="#">TA 2009/21</a>	R&D tax offset abuse through registered research agencies	22 December 2009

# ATO Interpretative Decisions

## New ATO Interpretative Decisions

<a href="#">ATO ID 2009/137</a>	Capital allowances: granting a right of use - other than a taxable purpose	20 November 2009
<a href="#">ATO ID 2009/138</a>	Managed investment trust withholding rate under Subdivision 12-H of Schedule 1 to the Taxation Administration Act 1953	20 November 2009
<a href="#">ATO ID 2009/139</a>	Custodians' managed investment trust withholding rate under Subdivision 12-H of Schedule 1 to the Taxation Administration Act 1953	20 November 2009
<a href="#">ATO ID 2009/140</a>	Residual fringe benefits: free travel on bus - private use	20 November 2009
<a href="#">ATO ID 2009/141</a>	Entertainment facility leasing expenses: hire of a marquee	20 November 2009
<a href="#">ATO ID 2009/142</a>	Taxation of Financial Arrangements: financial arrangement - is a forward purchase contract 'cash settleable' under paragraph 230-45(2)(e) of the Income Tax Assessment Act 1997	20 November 2009
<a href="#">ATO ID 2009/143</a>	Taxation of Financial Arrangements: financial arrangements - offsetting contracts - requirements under subsection 230-530(4) of the Income Tax Assessment Act 1997	27 November 2009
<a href="#">ATO ID 2009/144</a>	Capital gains tax: testamentary trust - trustee can choose to be assessed on capital gains	27 November 2009
<a href="#">ATO ID 2009/145</a>	Superannuation benefits: CSS indexed pension partially funded by a roll-over	4 December 2009
<a href="#">ATO ID 2009/146</a>	National Rental Affordability Scheme (NRAS)	4 December 2009
<a href="#">ATO ID 2009/147</a>	Capital gains tax: CGT discount - application of Subdivision 152-E and Subdivision 124-B roll-over	11 December 2009
<a href="#">ATO ID 2009/148</a>	CGT: non-resident becomes resident - assets in respect of which choice was made to treat as having the necessary connection with Australia	11 December 2009
<a href="#">ATO ID 2009/149</a>	Consolidation: membership rules - foreign hybrid company	11 December 2009
<a href="#">ATO ID 2009/150</a>	PAYG withholding: meaning of managed investment trust	11 December 2009
<a href="#">ATO ID 2009/151</a>	Superannuation Product: one or two superannuation income streams	11 December 2009
<a href="#">ATO ID 2009/152</a>	Benchmark rate of return: Mandatorily Redeemable Preference Share (MRPS)	11 December 2009
<a href="#">ATO ID 2009/153</a>	Consolidation: entry Allocable Cost Amount - identifying the relevant asset for the purposes of section 705-56 of the ITAA 1997	11 December 2009
<a href="#">ATO ID 2009/154</a>	Interest withholding tax - in substitution for interest	18 December 2009
<a href="#">ATO ID 2009/155</a>	Beneficiary of a managed investment trust	18 December 2009
<a href="#">ATO ID 2009/156</a>	Capital allowances: quasi-ownership right over land - meaning of lease	18 December 2009
<a href="#">ATO ID 2009/157</a>	Non-portfolio dividends: returns on redeemable preference shares - debt interests	18 December 2009
<a href="#">ATO ID 2009/158</a>	Application of Article 4(5)(d) of the Australia: Japan tax treaty - permanent establishment in Singapore of a Japanese resident company	18 December 2009
<a href="#">ATO ID 2009/159</a>	Employer's fringe benefits taxable amount: change in employer's status from endorsed public benevolent institution to a hospital	18 December 2009
<a href="#">ATO ID 2009/160</a>	Consolidation: tax cost setting rules - acquisition of a consolidated group	18 December 2009

<a href="#">ATO ID 2009/161</a>	Consolidation: treatment of transactions of an offshore branch of a subsidiary member of a consolidated group with other members of the group under the single entity rule	18 December 2009
<a href="#">ATO ID 2010/1</a>	Definition of child for purposes of section 295-485 of the Income Tax Assessment Act 1997	8 January 2010
<a href="#">ATO ID 2010/2</a>	Capital allowances: holder of an intangible depreciating asset - mining, quarrying or prospecting right	8 January 2010
<a href="#">ATO ID 2010/3</a>	Continuity of foreign service: consequence of taking maternity leave	8 January 2010
<a href="#">ATO ID 2010/4</a>	Consolidation: multiple entry consolidated group - special conversion event	8 January 2010
<a href="#">ATO ID 2010/5</a>	Complying superannuation fund: deduction for increased amount of superannuation lump sum death benefit	8 January 2010
<a href="#">ATO ID 2010/6</a>	GST and decreasing adjustments for supplies arising from terminated hire purchase agreements with underlying securitisation arrangements	8 January 2010
<a href="#">ATO ID 2010/7</a>	Self managed superannuation funds: tax treatment of futures contracts	8 January 2010
<a href="#">ATO ID 2010/8</a>	Non-Portfolio Dividend exemption to a distribution received by a limited partner from a Corporate Limited Partnership	8 January 2010
<a href="#">ATO ID 2010/9</a>	Capital gains tax: scrip for scrip roll-over - Delaware limited partnerships	8 January 2010
<a href="#">ATO ID 2010/10</a>	GST and bill of exchange not honoured at maturity	15 January 2010
<a href="#">ATO ID 2010/11</a>	GST and bill of exchange as consideration for a supply	15 January 2010
<a href="#">ATO ID 2010/12</a>	Excise: home consumption - delivered - periodic settlement permission	15 January 2010
<a href="#">ATO ID 2010/13</a>	Excise: home consumption - delivered - prepaid entry	15 January 2010
<a href="#">ATO ID 2010/14</a>	Capital Allowances: cost - computer software - annual licence fees	15 January 2010
<a href="#">ATO ID 2010/15</a>	Payments by a life insurance company to correct unit pricing errors	15 January 2010

## Withdrawn ATO Interpretative Decisions

<a href="#">ATO ID 2001/545 (Withdrawn)</a>	Superannuation Contributions Tax: Financial Year Used for Reporting Surchargeable Contributions	27 November 2009
<a href="#">ATO ID 2002/436 (Withdrawn)</a>	Non-quotation of a member's tax file number (TFN) for a particular superannuation account and the application of surcharge	27 November 2009
<a href="#">ATO ID 2002/727 (Withdrawn)</a>	Superannuation contributions tax: Adjusted taxable income	27 November 2009
<a href="#">ATO ID 2003/101 (Withdrawn)</a>	Capital gains tax: meaning of 'resident trust for CGT purposes'	11 December 2009
<a href="#">ATO ID 2003/102 (Withdrawn)</a>	Capital gains tax: Extension of time to choose the small business roll-over	11 December 2009
<a href="#">ATO ID 2003/104 (Withdrawn)</a>	Capital gains tax: Choice and the small business 50% reduction.	11 December 2009
<a href="#">ATO ID 2003/107 (Withdrawn)</a>	Capital gains tax: 'Claim' to participate in the distribution of assets in deceased estate	11 December 2009
<a href="#">ATO ID 2003/129 (Withdrawn)</a>	Capital gains tax: CGT discount - application of Subdivision 152-E and Subdivision 124-B rollover	11 December 2009
<a href="#">ATO ID 2003/132 (Withdrawn)</a>	CGT: non-resident becomes resident - assets in respect of which choice was made to treat as having the necessary connection with Australia	11 December 2009

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<a href="#"><u>ATO ID 2003/133</u></a> <a href="#"><u>(Withdrawn)</u></a>	CGT: non-resident becomes resident - assets that do not have the necessary connection with Australia	11 December 2009
<a href="#"><u>ATO ID 2003/147</u></a> <a href="#"><u>(Withdrawn)</u></a>	Capital gains tax: small business roll-over - function of replacement asset	11 December 2009
<a href="#"><u>ATO ID 2003/949</u></a> <a href="#"><u>(Withdrawn)</u></a>	Commercial debt forgiveness - whether creditor and debtor dealing at arm's length	11 December 2009
<a href="#"><u>ATO ID 2003/99</u></a> <a href="#"><u>(Withdrawn)</u></a>	Capital gains tax: non-resident trust - disposal of asset without necessary connection to Australia	11 December 2009
<a href="#"><u>ATO ID 2005/96</u></a> <a href="#"><u>(Withdrawn)</u></a>	Capital gains tax: assets having necessary connection with Australia: foreign resident company becoming Australian resident	11 December 2009
<a href="#"><u>ATO ID 2002/1082</u></a> <a href="#"><u>(Withdrawn)</u></a>	Interposed Entity Elections (IEE) - Multiple Elections	18 December 2009
<a href="#"><u>ATO ID 2003/1114</u></a> <a href="#"><u>(Withdrawn)</u></a>	CGT small business concessions: controlling individual - different income and capital beneficiaries	18 December 2009
<a href="#"><u>ATO ID 2003/1129</u></a> <a href="#"><u>(Withdrawn)</u></a>	Capital gains tax: rollover relief - transfer of asset to company in same wholly-owned group during the period commencing 30 June 2003 and ending just before the first day of the originating company's first income year that commences after 30 June 2003	18 December 2009
<a href="#"><u>ATO ID 2003/1137</u></a> <a href="#"><u>(Withdrawn)</u></a>	Capital gains tax: shares - non assessable payment	18 December 2009
<a href="#"><u>ATO ID 2003/364</u></a> <a href="#"><u>(Withdrawn)</u></a>	Group company loss transfers: unsigned transfer agreement	18 December 2009
<a href="#"><u>ATO ID 2003/365</u></a> <a href="#"><u>(Withdrawn)</u></a>	Group company loss transfers: net capital loss of loss company - assessable income of income company	18 December 2009
<a href="#"><u>ATO ID 2003/366</u></a> <a href="#"><u>(Withdrawn)</u></a>	Group company loss transfers: transfer of net capital loss and tax loss to offset capital gain	18 December 2009
<a href="#"><u>ATO ID 2003/70</u></a> <a href="#"><u>(Withdrawn)</u></a>	Transfer of net capital loss - application of net capital loss	18 December 2009
<a href="#"><u>ATO ID 2003/71</u></a> <a href="#"><u>(Withdrawn)</u></a>	Transfer of losses - deductibility of prior year losses	18 December 2009
<a href="#"><u>ATO ID 2003/74</u></a> <a href="#"><u>(Withdrawn)</u></a>	Commercial Debt Forgiveness - debt relating to exempt income	18 December 2009
<a href="#"><u>ATO ID 2004/404</u></a> <a href="#"><u>(Withdrawn)</u></a>	Capital gains tax: cost base: adjustment for capital works expenditure deducted	18 December 2009
<a href="#"><u>ATO ID 2004/6</u></a> <a href="#"><u>(Withdrawn)</u></a>	Employee share scheme: capital gains tax - cost base modification of share acquired from exercise of qualifying right	18 December 2009
<a href="#"><u>ATO ID 2004/7</u></a> <a href="#"><u>(Withdrawn)</u></a>	CGT small business concessions: active asset - intangible asset used in a connected entity's business	18 December 2009
<a href="#"><u>ATO ID 2004/788</u></a> <a href="#"><u>(Withdrawn)</u></a>	Capital Gains Tax: becoming an Australian resident - assets having the necessary connection with Australia - private company shares	18 December 2009
<a href="#"><u>ATO ID 2004/946</u></a> <a href="#"><u>(Withdrawn)</u></a>	Capital gains tax: marriage breakdown rollover - transfer of asset from company to individual under court order	18 December 2009
<a href="#"><u>ATO ID 2006/73</u></a> <a href="#"><u>(Withdrawn)</u></a>	Capital gains tax: marriage breakdown rollover - transfer of asset from one self managed superannuation fund to another	18 December 2009
<a href="#"><u>ATO ID 2001/718</u></a> <a href="#"><u>(Withdrawn)</u></a>	Excise - Payments - Diesel Fuel Rebate Scheme - Applications received more than three years after the purchase of fuel	8 January 2010
<a href="#"><u>ATO ID 2001/720</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel Fuel Rebate - construction of fire-fighting dams in forests	8 January 2010
<a href="#"><u>ATO ID 2001/765</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel Fuel Rebate - Maintenance of roads in forests or plantations (forestry roads)	8 January 2010
<a href="#"><u>ATO ID 2002/1093</u></a> <a href="#"><u>(Withdrawn)</u></a>	Excise - Payments - Diesel Fuel Rebate Scheme - Status as 'marine transport' of the transport of forestry products by boat to a place for export	8 January 2010
<a href="#"><u>ATO ID 2002/253</u></a> <a href="#"><u>(Withdrawn)</u></a>	Excise - Payments - Diesel Fuel Rebate Scheme - stock feed delivery to farms	8 January 2010

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<a href="#"><u>ATO ID 2002/428</u></a> <a href="#"><u>(Withdrawn)</u></a>	Excise - Payments - Diesel Fuel Rebate Scheme - eligibility of a waste stream treatment as an activity for the purposes of 'mining operations'	8 January 2010
<a href="#"><u>ATO ID 2002/733</u></a> <a href="#"><u>(Withdrawn)</u></a>	Excise - Payments - Diesel Fuel Rebate Scheme - what is a 'sawmill'?	8 January 2010
<a href="#"><u>ATO ID 2002/905</u></a> <a href="#"><u>(Withdrawn)</u></a>	Excise - Payments - Diesel Fuel Rebate Scheme - Fishing - Non-propelled vessels	8 January 2010
<a href="#"><u>ATO ID 2002/917</u></a> <a href="#"><u>(Withdrawn)</u></a>	Excise - Payments - Diesel Fuel Rebate Scheme - electricity generation for research purposes	8 January 2010
<a href="#"><u>ATO ID 2002/952</u></a> <a href="#"><u>(Withdrawn)</u></a>	Excise - Payments - Diesel Fuel Rebate Scheme - eligibility of fuel used by an earthmoving contractor	8 January 2010
<a href="#"><u>ATO ID 2001/718</u></a> <a href="#"><u>(Withdrawn)</u></a>	Excise - Payments - Diesel Fuel Rebate Scheme - Applications received more than three years after the purchase of fuel	8 January 2010
<a href="#"><u>ATO ID 2001/720</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel Fuel Rebate - construction of fire-fighting dams in forests	8 January 2010
<a href="#"><u>ATO ID 2001/765</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel Fuel Rebate - Maintenance of roads in forests or plantations (forestry roads)	8 January 2010
<a href="#"><u>ATO ID 2002/1093</u></a> <a href="#"><u>(Withdrawn)</u></a>	Excise - Payments - Diesel Fuel Rebate Scheme - Status as 'marine transport' of the transport of forestry products by boat to a place for export	8 January 2010
<a href="#"><u>ATO ID 2002/953</u></a> <a href="#"><u>(Withdrawn)</u></a>	Excise - Payments - Diesel Fuel Rebate Scheme - eligibility of fuel used in vessels hired to the public for fishing or recreational purposes	8 January 2010
<a href="#"><u>ATO ID 2003/1039</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel Fuel Rebate Scheme: mining - generation of electricity for use in mining operations	8 January 2010
<a href="#"><u>ATO ID 2003/1046</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel Fuel Rebate Scheme - is talc a mineral?	8 January 2010
<a href="#"><u>ATO ID 2003/1062</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel Fuel Rebate Scheme: rail - loading & unloading of rail wagons	8 January 2010
<a href="#"><u>ATO ID 2003/1074</u></a> <a href="#"><u>(Withdrawn)</u></a>	Excise: payments - Diesel Fuel Rebate Scheme - mining - processing of ilmenite (ilmenite)	8 January 2010
<a href="#"><u>ATO ID 2003/131</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel Fuel Rebate Scheme: Diesel Fuel used in drying grain	8 January 2010
<a href="#"><u>ATO ID 2003/134</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel Fuel Rebate Scheme - Mining Operations - Extraction of Clay	8 January 2010
<a href="#"><u>ATO ID 2003/241</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel fuel rebate scheme: Eligible activity - vessels as residential premises	8 January 2010
<a href="#"><u>ATO ID 2003/242</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel fuel rebate scheme: Eligible activity - 'at' residential premises	8 January 2010
<a href="#"><u>ATO ID 2003/243</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel fuel rebate scheme: electricity generation for power to a vessel	8 January 2010
<a href="#"><u>ATO ID 2003/244</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel fuel rebate scheme: recovery of feldspar	8 January 2010
<a href="#"><u>ATO ID 2003/432</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel Fuel Rebate Scheme: Marine Transport - demonstration of vessels	8 January 2010
<a href="#"><u>ATO ID 2003/433</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel Fuel Rebate Scheme: Marine Transport - transport of vessels	8 January 2010
<a href="#"><u>ATO ID 2003/434</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel Fuel Rebate Scheme: Marine Transport - registration documents	8 January 2010
<a href="#"><u>ATO ID 2003/437</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel Fuel Rebate Scheme: Marine transport - Vessel salvage operations	8 January 2010
<a href="#"><u>ATO ID 2003/576</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel Fuel Rebate Scheme: Agriculture - production of mushroom substrate for use in mushroom growing	8 January 2010
<a href="#"><u>ATO ID 2003/577</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel Fuel Rebate Scheme: Marine Transport - Eligibility for diesel fuel used during a charter	8 January 2010

<a href="#"><u>ATO ID 2003/578</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel Fuel Rebate Scheme: Definition of diesel fuel - blend of diesel and ethanol	8 January 2010
<a href="#"><u>ATO ID 2003/712</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel Fuel Rebate Scheme: Wood chipping of environmentally destructive trees in a forest	8 January 2010
<a href="#"><u>ATO ID 2003/732</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel Fuel Rebate Scheme: Residential - Generation of electricity	8 January 2010
<a href="#"><u>ATO ID 2003/805</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel Fuel Rebate Scheme: Agriculture - pumping of water	8 January 2010
<a href="#"><u>ATO ID 2003/806</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel Fuel Rebate Scheme: Agriculture - distillation of essential oils	8 January 2010
<a href="#"><u>ATO ID 2003/881</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel Fuel Rebate Scheme: Amendment of diesel fuel rebate claims	8 January 2010
<a href="#"><u>ATO ID 2003/885</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel Fuel Rebate Scheme: Residential - Non profit organisation providing electricity to remote communities	8 January 2010
<a href="#"><u>ATO ID 2003/933</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel Fuel Rebate Scheme: residential - eligibility of diesel fuel used in electricity generation for detainees at a detention centre	8 January 2010
<a href="#"><u>ATO ID 2003/935</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel Fuel Rebate Scheme: eligibility of person using one generator for both a farming business and a tourism/retail business at same location	8 January 2010
<a href="#"><u>ATO ID 2003/937</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel Fuel Rebate Scheme: electricity generation - residential premises	8 January 2010
<a href="#"><u>ATO ID 2003/942</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel Fuel Rebate Scheme: horticulture - production of disease-free immature plants	8 January 2010
<a href="#"><u>ATO ID 2003/943</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel Fuel Rebate Scheme: cultivation or gathering in of crops	8 January 2010
<a href="#"><u>ATO ID 2003/944</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel Fuel Rebate Scheme: agriculture - weed, pest or disease control	8 January 2010
<a href="#"><u>ATO ID 2003/958</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel Fuel Rebate Scheme: hospitality business - generation of electricity for staff residences	8 January 2010
<a href="#"><u>ATO ID 2003/959</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel Fuel Rebate Scheme: hospitality - diesel fuel used in providing power to a retail/hospitality business - fuel purchased prior to 1 July 2002	8 January 2010
<a href="#"><u>ATO ID 2003/960</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel Fuel Rebate Scheme: hospitality - diesel fuel used at caravan park, tea rooms and a museum	8 January 2010
<a href="#"><u>ATO ID 2004/101</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel Fuel Rebate Scheme: forestry - the milling of timber at a sawmill or chipmill	8 January 2010
<a href="#"><u>ATO ID 2004/105</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel Fuel Rebate Scheme: forestry - thinning and felling of trees under power lines	8 January 2010
<a href="#"><u>ATO ID 2004/109</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel Fuel Rebate Scheme: shipping agent entitled to rebate	8 January 2010
<a href="#"><u>ATO ID 2004/329</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel Fuel Rebate Scheme: agriculture - firebreak maintenance and wildfire control	8 January 2010
<a href="#"><u>ATO ID 2004/330</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel Fuel Rebate Scheme: forestry - firebreak maintenance and wildfire control	8 January 2010
<a href="#"><u>ATO ID 2004/399</u></a> <a href="#"><u>(Withdrawn)</u></a>	Definition of State or Territory Authority	8 January 2010
<a href="#"><u>ATO ID 2004/40</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel Fuel Rebate Scheme: beneficiation and talc	8 January 2010
<a href="#"><u>ATO ID 2004/453</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel Fuel Rebate Scheme: off-road - claim amendment	8 January 2010
<a href="#"><u>ATO ID 2004/454</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel fuel rebate scheme: fishing operations - processing fish	8 January 2010
<a href="#"><u>ATO ID 2004/533</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel fuel rebate scheme: agent entitled to lodge claim on behalf of principal	8 January 2010

<a href="#">ATO ID 2004/540 (Withdrawn)</a>	Diesel Fuel Rebate Scheme: marine transport - dredging	8 January 2010
<a href="#">ATO ID 2004/541 (Withdrawn)</a>	Diesel Fuel Rebate Scheme: marine transport - dredging - discharge of dredged material	8 January 2010
<a href="#">ATO ID 2004/542 (Withdrawn)</a>	Diesel Fuel Rebate Scheme: residential - crew quarters on vessel	8 January 2010
<a href="#">ATO ID 2004/586 (Withdrawn)</a>	Excise: request for amendment of diesel fuel rebate claim	8 January 2010
<a href="#">ATO ID 2004/597 (Withdrawn)</a>	Diesel Fuel Rebate Scheme: rail transport - road vehicles fitted with equipment	8 January 2010
<a href="#">ATO ID 2004/60 (Withdrawn)</a>	Diesel Fuel Rebate Scheme: retail/hospitality industry - ready access	8 January 2010
<a href="#">ATO ID 2004/620 (Withdrawn)</a>	Diesel Fuel Rebate Scheme: marine transport - travel by a dredge to and from dredging and disposal sites	8 January 2010
<a href="#">ATO ID 2004/780 (Withdrawn)</a>	Diesel Fuel Rebate Scheme: agriculture - earthworks on a property not yet an agricultural property	8 January 2010
<a href="#">ATO ID 2004/784 (Withdrawn)</a>	Diesel Fuel Rebate Scheme: agriculture - earthworks - new core agricultural activity on a disused agricultural property	8 January 2010
<a href="#">ATO ID 2004/786 (Withdrawn)</a>	Diesel Fuel Rebate Scheme: agriculture - earthworks - change in ownership of agricultural property	8 January 2010
<a href="#">ATO ID 2004/787 (Withdrawn)</a>	Diesel Fuel Rebate Scheme: agriculture - earthworks - change in core agricultural activity	8 January 2010
<a href="#">ATO ID 2004/803 (Withdrawn)</a>	Diesel Fuel Rebate Scheme: marine transport - generation of electricity to power equipment on a vessel used to load goods onto and remove goods from the vessel	8 January 2010
<a href="#">ATO ID 2004/878 (Withdrawn)</a>	Diesel Fuel Rebate Scheme: mining operations - transportation of ore concentrate between two beneficiation plants	8 January 2010
<a href="#">ATO ID 2004/879 (Withdrawn)</a>	Diesel Fuel Rebate Scheme: mining operations - transportation of ore concentrate between two beneficiation plants located away from mining site	8 January 2010
<a href="#">ATO ID 2004/99 (Withdrawn)</a>	Excise: payments - Diesel Fuel Rebate Scheme - agriculture - livestock research	8 January 2010
<a href="#">ATO ID 2005/139 (Withdrawn)</a>	Diesel Fuel Rebate Scheme - Marine Transport - Self-elevating platforms	8 January 2010
<a href="#">ATO ID 2005/140 (Withdrawn)</a>	Diesel Fuel Rebate Scheme - Marine Transport - Dredging	8 January 2010
<a href="#">ATO ID 2005/238 (Withdrawn)</a>	Diesel Fuel Rebate Scheme: eligibility of diesel fuel purchased and used in marine transport	8 January 2010
<a href="#">ATO ID 2007/114 (Withdrawn)</a>	Excise: diesel fuel rebate - amendment of assessments	8 January 2010
<a href="#">ATO ID 2003/960 (Withdrawn)</a>	Diesel Fuel Rebate Scheme: hospitality - diesel fuel used at caravan park, tea rooms and a museum	8 January 2010
<a href="#">ATO ID 2004/101 (Withdrawn)</a>	Diesel Fuel Rebate Scheme: forestry - the milling of timber at a sawmill or chipmill	8 January 2010
<a href="#">ATO ID 2004/105 (Withdrawn)</a>	Diesel Fuel Rebate Scheme: forestry - thinning and felling of trees under power lines	8 January 2010
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<a href="#">ATO ID 2004/329 (Withdrawn)</a>	Diesel Fuel Rebate Scheme: agriculture - firebreak maintenance and wildfire control	8 January 2010
<a href="#">ATO ID 2004/330 (Withdrawn)</a>	Diesel Fuel Rebate Scheme: forestry - firebreak maintenance and wildfire control	8 January 2010
<a href="#">ATO ID 2004/399 (Withdrawn)</a>	Definition of State or Territory Authority	8 January 2010

<a href="#"><u>ATO ID 2004/40</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel Fuel Rebate Scheme: beneficiation and talc	8 January 2010
<a href="#"><u>ATO ID 2004/453</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel Fuel Rebate Scheme: off-road - claim amendment	8 January 2010
<a href="#"><u>ATO ID 2004/454</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel fuel rebate scheme: fishing operations - processing fish	8 January 2010
<a href="#"><u>ATO ID 2004/533</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel fuel rebate scheme: agent entitled to lodge claim on behalf of principal	8 January 2010
<a href="#"><u>ATO ID 2004/540</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel Fuel Rebate Scheme: marine transport - dredging	8 January 2010
<a href="#"><u>ATO ID 2004/541</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel Fuel Rebate Scheme: marine transport - dredging - discharge of dredged material	8 January 2010
<a href="#"><u>ATO ID 2004/542</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel Fuel Rebate Scheme: residential - crew quarters on vessel	8 January 2010
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<a href="#"><u>ATO ID 2004/597</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel Fuel Rebate Scheme: rail transport - road vehicles fitted with equipment	8 January 2010
<a href="#"><u>ATO ID 2004/60</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel Fuel Rebate Scheme: retail/hospitality industry - ready access	8 January 2010
<a href="#"><u>ATO ID 2004/620</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel Fuel Rebate Scheme: marine transport - travel by a dredge to and from dredging and disposal sites	8 January 2010
<a href="#"><u>ATO ID 2004/780</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel Fuel Rebate Scheme: agriculture - earthworks on a property not yet an agricultural property	8 January 2010
<a href="#"><u>ATO ID 2004/784</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel Fuel Rebate Scheme: agriculture - earthworks - new core agricultural activity on a disused agricultural property	8 January 2010
<a href="#"><u>ATO ID 2004/786</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel Fuel Rebate Scheme: agriculture - earthworks - change in ownership of agricultural property	8 January 2010
<a href="#"><u>ATO ID 2004/787</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel Fuel Rebate Scheme: agriculture - earthworks - change in core agricultural activity	8 January 2010
<a href="#"><u>ATO ID 2004/803</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel Fuel Rebate Scheme: marine transport - generation of electricity to power equipment on a vessel used to load goods onto and remove goods from the vessel	8 January 2010
<a href="#"><u>ATO ID 2004/878</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel Fuel Rebate Scheme: mining operations - transportation of ore concentrate between two beneficiation plants	8 January 2010
<a href="#"><u>ATO ID 2004/879</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel Fuel Rebate Scheme: mining operations - transportation of ore concentrate between two beneficiation plants located away from mining site	8 January 2010
<a href="#"><u>ATO ID 2004/99</u></a> <a href="#"><u>(Withdrawn)</u></a>	Excise: payments - Diesel Fuel Rebate Scheme - agriculture - livestock research	8 January 2010
<a href="#"><u>ATO ID 2005/139</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel Fuel Rebate Scheme - Marine Transport - Self-elevating platforms	8 January 2010
<a href="#"><u>ATO ID 2005/140</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel Fuel Rebate Scheme - Marine Transport - Dredging	8 January 2010
<a href="#"><u>ATO ID 2005/238</u></a> <a href="#"><u>(Withdrawn)</u></a>	Diesel Fuel Rebate Scheme: eligibility of diesel fuel purchased and used in marine transport	8 January 2010
<a href="#"><u>ATO ID 2007/114</u></a> <a href="#"><u>(Withdrawn)</u></a>	Excise: diesel fuel rebate - amendment of assessments	8 January 2010
<a href="#"><u>ATO ID 2002/1031</u></a> <a href="#"><u>(Withdrawn)</u></a>	Tax Losses-Continuity of Ownership Test (COT) and application of 'saving rule'	15 January 2010
<a href="#"><u>ATO ID 2002/646</u></a> <a href="#"><u>(Withdrawn)</u></a>	Trust loss provisions - carry-forward losses of deceased estate	15 January 2010
<a href="#"><u>ATO ID 2002/746</u></a> <a href="#"><u>(Withdrawn)</u></a>	Trust - liability for Family Trust Distribution Tax on distribution to superannuation fund	15 January 2010

<a href="#"><u>ATO ID 2002/748 (Withdrawn)</u></a>	Superannuation Fund - liability for Family Trust Distribution Tax on a distribution outside the family group.	15 January 2010
<a href="#"><u>ATO ID 2003/119 (Withdrawn)</u></a>	Transfer of tax loss: written agreement - change to the amount of tax loss	15 January 2010
<a href="#"><u>ATO ID 2003/120 (Withdrawn)</u></a>	Transfer of net capital loss: written agreement - change to the amount of assessable net capital gain	15 January 2010
<a href="#"><u>ATO ID 2003/121 (Withdrawn)</u></a>	Transfer of net capital loss: written agreement - change to the amount of net capital loss	15 January 2010
<a href="#"><u>ATO ID 2003/123 (Withdrawn)</u></a>	Group company loss transfers: valid transfer agreement - single document with multiple agreements	15 January 2010
<a href="#"><u>ATO ID 2003/124 (Withdrawn)</u></a>	Group company loss transfers: valid transfer agreement - single document with multiple agreements	15 January 2010
<a href="#"><u>ATO ID 2003/164 (Withdrawn)</u></a>	Family trusts: interposed entity elections - entities owned by family members	15 January 2010
<a href="#"><u>ATO ID 2003/174 (Withdrawn)</u></a>	Trust Losses: Pattern of distributions and prior year losses of non-fixed trust	15 January 2010
<a href="#"><u>ATO ID 2003/199 (Withdrawn)</u></a>	Capital gains tax: CGT discount and small business concessions - disposal of active asset by non-resident	15 January 2010
<a href="#"><u>ATO ID 2003/21 (Withdrawn)</u></a>	Group company loss transfers: companies wholly-owned by the same individuals	15 January 2010
<a href="#"><u>ATO ID 2003/236 (Withdrawn)</u></a>	Interposed Entity Elections: trust in respect of which the relevant Family Trust Election was made ceases to exist	15 January 2010
<a href="#"><u>ATO ID 2003/273 (Withdrawn)</u></a>	Commercial debt forgiveness: commercial debt - 'exception provision' - section 51AD of the Income Tax Assessment Act 1936	15 January 2010
<a href="#"><u>ATO ID 2003/277 (Withdrawn)</u></a>	Group company loss transfers: wholly-owned group - company not a member of the group for the whole test period	15 January 2010
<a href="#"><u>ATO ID 2003/278 (Withdrawn)</u></a>	Group company loss transfers: net capital loss - gain company incorporated during the application year	15 January 2010
<a href="#"><u>ATO ID 2003/294 (Withdrawn)</u></a>	Commercial debt forgiveness - applying total net forgiven amount - partnerships and partners.	15 January 2010
<a href="#"><u>ATO ID 2003/306 (Withdrawn)</u></a>	Commercial debt forgiveness - net forgiven amount - loss transfers between a group of related companies	15 January 2010
<a href="#"><u>ATO ID 2003/333 (Withdrawn)</u></a>	Group company loss transfers: valid transfer agreement - income company not a group member during the loss year	15 January 2010
<a href="#"><u>ATO ID 2003/334 (Withdrawn)</u></a>	Continuity of ownership test: transfer of shares received by a beneficiary of a deceased estate to a fellow beneficiary of the same estate	15 January 2010
<a href="#"><u>ATO ID 2003/596 (Withdrawn)</u></a>	Life Insurance Company: foreign tax credits relating to the share of the company's trust income derived from segregated exempt assets	15 January 2010
<a href="#"><u>ATO ID 2004/245 (Withdrawn)</u></a>	Family trusts: family trust election - family control test	15 January 2010
<a href="#"><u>ATO ID 2004/246 (Withdrawn)</u></a>	Trust losses: scheme to take advantage of deductions (income injection test) - bad debts	15 January 2010
<a href="#"><u>ATO ID 2004/376 (Withdrawn)</u></a>	Commercial debt forgiveness - creditor company is group member with deductible revenue losses	15 January 2010
<a href="#"><u>ATO ID 2004/456 (Withdrawn)</u></a>	Capital gains tax: Demerger - cost base of new interest in demerged entity - no CGT event happened to pre-CGT original interest	15 January 2010
<a href="#"><u>ATO ID 2004/457 (Withdrawn)</u></a>	Capital gains tax: Demerger - CGT status of new interest - no CGT event happened to pre-CGT original interest	15 January 2010
<a href="#"><u>ATO ID 2004/538 (Withdrawn)</u></a>	Capital Gains Tax: small business concessions - small business CGT affiliate - permanently separated spouse	15 January 2010

<a href="#"><u>ATO ID 2004/566</u></a> <a href="#"><u>(Withdrawn)</u></a>	Capital Gains Tax: discount capital gain - lease surrender receipt by lessor	15 January 2010
<a href="#"><u>ATO ID 2004/57</u></a> <a href="#"><u>(Withdrawn)</u></a>	Capital gains tax: Sale of shares in demerged non-resident company by resident shareholder - reduction of capital gain by amount of assessable dividend	15 January 2010
<a href="#"><u>ATO ID 2004/601</u></a> <a href="#"><u>(Withdrawn)</u></a>	Capital gains tax: fourth element of cost base and reduced cost base - costs incurred for the removal of restrictive covenants	15 January 2010
<a href="#"><u>ATO ID 2004/641</u></a> <a href="#"><u>(Withdrawn)</u></a>	Capital gains tax: testamentary gift of property to a deductible gift recipient	15 January 2010
<a href="#"><u>ATO ID 2004/665</u></a> <a href="#"><u>(Withdrawn)</u></a>	CGT small business concessions: active asset - discretionary trust - connected entity - beneficiary control test	15 January 2010
<a href="#"><u>ATO ID 2004/95</u></a> <a href="#"><u>(Withdrawn)</u></a>	Capital gains tax: Subdivision 122-A rollover: shares transferred from current shareholders	15 January 2010
<a href="#"><u>ATO ID 2004/950</u></a> <a href="#"><u>(Withdrawn)</u></a>	Capital gains tax: main residence exemption: interaction between the 'absence' rule and the 'first use to produce income' rule - dwelling used to produce income for more than six years	15 January 2010
<a href="#"><u>ATO ID 2004/969</u></a> <a href="#"><u>(Withdrawn)</u></a>	CGT small business concessions: retirement exemption: eligible termination payment (ETP) roll-over - transfer of property	15 January 2010
<a href="#"><u>ATO ID 2004/970</u></a> <a href="#"><u>(Withdrawn)</u></a>	Capital Gains Tax: small business concessions - connected entities - control of discretionary trust with tax loss - nomination of controllers	15 January 2010
<a href="#"><u>ATO ID 2005/110</u></a> <a href="#"><u>(Withdrawn)</u></a>	Capital Gains Tax: small business concessions - maximum net asset value test - non-resident's worldwide assets	15 January 2010
<a href="#"><u>ATO ID 2005/198</u></a> <a href="#"><u>(Withdrawn)</u></a>	Capital Gains Tax: scrip for scrip roll-over - significant stake	15 January 2010
<a href="#"><u>ATO ID 2005/225</u></a> <a href="#"><u>(Withdrawn)</u></a>	Fixed trust - foreign resident beneficiary - capital gain disregarded when CGT event for fixed trust estate happens prior to 21 March 2005	15 January 2010
<a href="#"><u>ATO ID 2005/239</u></a> <a href="#"><u>(Withdrawn)</u></a>	Capital Gains Tax: demerger - original interests in the head entity of a demerger group	15 January 2010
<a href="#"><u>ATO ID 2005/347</u></a> <a href="#"><u>(Withdrawn)</u></a>	Capital gains tax: capital improvements - cost base used in determining whether improvement is a separate CGT asset	15 January 2010
<a href="#"><u>ATO ID 2005/44</u></a> <a href="#"><u>(Withdrawn)</u></a>	Capital Gains Tax: small business concessions - active asset test - cessation of relevant business	15 January 2010
<a href="#"><u>ATO ID 2006/154</u></a> <a href="#"><u>(Withdrawn)</u></a>	Capital Gains Tax: cost base - costs of hiring furniture and ornaments	15 January 2010
<a href="#"><u>ATO ID 2007/154</u></a> <a href="#"><u>(Withdrawn)</u></a>	Fuel Tax Credit: eligibility - grader with GVM greater than 4.5 tonnes	15 January 2010
<a href="#"><u>ATO ID 2007/203</u></a> <a href="#"><u>(Withdrawn)</u></a>	Excise: home consumption - delivered - prepaid entry	15 January 2010
<a href="#"><u>ATO ID 2007/207</u></a> <a href="#"><u>(Withdrawn)</u></a>	Excise: home consumption - delivered - periodic settlement permission	15 January 2010

# Monthly Case Update

## Cases

### [South Steyne Hotel Pty Ltd v Commissioner of Taxation \[2009\] FCAFC 155](#)

The Full Federal Court has largely upheld an appeal from the Federal Court about a number of GST issues relating to the lease, sale and use of former hotel rooms that have been strata-titled as service apartments. The Court held that the order of the primary judge dismissing the entire proceeding should be set aside, instead declaring that certain sales of apartments by South Steyne (the taxpayer) was GST-free as a supply of a going concern, but that the proceeding should be otherwise dismissed. This meant that the primary judge's findings that (a) the grant of leases of apartments in hotel were input taxed supplies of residential premises (and not commercial residential premises), (b) the subsequent continuation of leases when apartments were sold were input taxed supplies, and (c) allowing an employee of a related entity to stay in the apartments was a taxable supply.

### [The Electrical Goods Importer and Commissioner of Taxation \[2009\] AATA 854](#)

The AAT has held that a wholesale taxpayer was not entitled to reduce the consideration it received for making certain taxable supplies to retailers where it provided a “cash-back” to the customers of the retailer (or to make a decreasing adjustment if it provided a cash-back in a later period). The European notion of “fiscal neutrality” is not applicable in Australia: “In any event, it must always be remembered that the GST Act is a transaction tax in that it exacts a tax on transactions or supplies and that we are here concerned with two successive transactions, neither of which is altered or adjusted by the payment of the cash back amount. In this matter, the legislation is worded in such manner that the cash back payments to customers do not give rise to any credit in favour of the Applicant and accordingly, the objection decision under review must be affirmed.”

### [Clark v Commissioner of Taxation \[2009\] FCA 1401](#)

The Federal Court has held that the ultimate beneficiaries of a trust could establish (on the balance of probabilities) that the trust had previously unapplied net capital losses from earlier income years that could be properly applied to reduce to nil the net capital gain arising out of the disposal of properties in a later income year. The trust was not precluded from claiming the losses as a result of changes in the trust fund, the trustee's interest in the trust estate, and the interests of beneficiaries under the trust deed. That is, these events did not bring about a break in continuity between the trust estate that made the capital gain in the 2001 income year and that which suffered the capital loss in the 1993 income year.

### [Appeal: Commissioner of Taxation v Anstis \[2009\] FCAFC 154](#)

The Commissioner has applied for special leave to appeal to the High Court against the decision of the Full Federal Court which upheld the [Federal Court decision in Anstis v FCT \[2009\] FCA 286](#) to allow a deduction under S.8-1 for self-education expenses incurred by a taxpayer whilst undertaking a university degree as an outgoing incurred in gaining an assessable Youth Allowance.

In so doing, the Full Court dismissed the Commissioner's appeal against the Federal Court decision. The Full Court held that the taxpayer was paid to undertake the course in which she was enrolled on condition that she did so in a particular manner — and to a particular standard — to satisfy the Social Security Secretary that she was making satisfactory progress towards completing the course.

In the court's view, there was nothing in the evidence to suggest that any part of the expenditure claimed was incurred prior to, or as a condition of, enrolment so as to lack a nexus with income.

## Decision Impact Statements

<a href="#">NSD 97/2009</a>	South Steyne Hotel Pty Ltd & Ors v Commissioner of Taxation	30 November 2009
<a href="#">2008/2147-2149;</a> <a href="#">2008/4832-4834</a>	Douglas Willersdorf-Greene v Commissioner of Taxation	4 December 2009
<a href="#">2008/3558-3559</a>	Mark Horner v Commissioner of Taxation	4 December 2009
<a href="#">2007/5830-5833</a>	Taneja v Commissioner of Taxation	15 December 2009
<a href="#">2008/2748, 2008/2751 &amp;</a> <a href="#">2008/2752</a>	Najawa & Kenneth Mezrani v Commissioner of Taxation	15 December 2009
<a href="#">NSD 601 of 2008</a>	Commissioner of Taxation v Sydney Refractive Surgery Centre Pty Ltd	15 December 2009
<a href="#">2007/0460</a>	Trustee for the Amabalad Family Trust and Commissioner of Taxation	23 December 2009
<a href="#">NT2006/0368 to 0371</a>	Kalintas, Ali and Commissioner of Taxation	23 December 2009

## Other Developments

### Media Releases: Treasury and Treasury Ministers

#### Treasurer

117	19/11/2009	<a href="#">OECD Economic Outlook - November 2009</a>
118	27/11/2009	<a href="#">Treasurer Calls for 2010-11 Budget Submissions</a>
119	30/11/2009	<a href="#">Treasurer Directs the AOFM to Invest in up to a Further \$8 Billion in RMBS</a>
120	08/12/2009	<a href="#">Balance Of Payments - September Quarter 2009</a>
121	08/12/2009	<a href="#">Shadow Finance Minister Needs to Commit to Responsible Financial Management</a>
122	08/12/2009	<a href="#">2008-09 Annual National Accounts and the Australian Government Fiscal Aggregates</a>
123	16/12/2009	<a href="#">National Accounts - September Quarter 2009</a>
124	18/12/2009	<a href="#">New R&amp;D Tax Credit - Exposure Draft Legislation</a>
125	23/12/2009	<a href="#">Government Receives the Australia's Future Tax System Review</a>
001	04/01/2010	<a href="#">Government Welcomes Productivity Commission Report on Executive Remuneration</a>
002	07/01/2010	<a href="#">Opposition Leader Blunders Again on Economy</a>
003	13/01/2010	<a href="#">Senior Liberals Divided Again on Economy</a>

#### Assistant Treasurer

112	17/12/2009	<a href="#">Draft Legislation to Change Thin Capitalisation Rules</a>
113	17/12/2009	<a href="#">Tax Deductible Status for Eight Australian Aid Funds</a>
114	17/12/2009	<a href="#">Tax Deductible Status for Important Environment and Climate Change Organisations</a>
115	17/12/2009	<a href="#">Deductibility of Gifts To Bali Peace Park Association</a>
116	18/12/2009	<a href="#">Draft Legislation to Protect Forestry Managed Investment Scheme Investors</a>
117	18/12/2009	<a href="#">Release of Draft Legislation to Repeal Foreign Investment Fund Rules</a>
118	22/12/2009	<a href="#">Small Businesses Need to Hurry to Cash in on Their Christmas Tax Break</a>
119	23/12/2009	<a href="#">Figures Show Tasmania Can Look to a Hopeful 2010</a>
001	04/01/2010	<a href="#">Government Welcomes Productivity Commission Report on Executive Remuneration</a>
002	04/01/2010	<a href="#">Tax Clarity for Rural Communities and Small Business Operators a Step Closer</a>
003	05/01/2010	<a href="#">Release of Consultation Paper on Reform of Controlled Foreign Company (CFC) Rules</a>
004	06/01/2010	<a href="#">New Merger Tax Rules to Make it Easier for Shareholders</a>
005	12/01/2010	<a href="#">Government Acts to Provide Certainty on Taxation of Financial Arrangements</a>
006	15/01/2010	<a href="#">Government Welcomes Johnson Report on Australia as a Financial Services Centre</a>
007	15/01/2010	<a href="#">Donations in Response to the Haiti Earthquake</a>

**Minister for Financial Services, Superannuation and Corporate Law & Minister for Human Services**

- 037 16/11/2009 [Bowen Welcomes Passage of Executive Pay Termination Payments Legislation](#)
- 038 20/11/2009 [Release of Draft Regulations to the National Consumer Protection Package for Further Consultation](#)
- 039 23/11/2009 [Government Welcomes Report into Financial Services & Products](#)
- 040 26/11/2009 [Superannuation Clearing House – Release of Draft Legislation](#)
- 041 02/12/2009 [Consultation on Market Supervision Reforms](#)
- 042 04/12/2009 [Cutting Red Tape and Improving Australia's Corporate Reporting Framework](#)
- 043 10/12/2009 [New Opposition Policy on Banking](#)
- 044 14/12/2009 [Government Consults on Product Rationalisation Proposal](#)
- 045 16/12/2009 [New Reporting Arrangements for Intermediated General Insurance Business](#)
- 046 17/12/2009 [National Roll-Out of SBR Specifications](#)
- 047 21/12/2009 [Simpler Disclosure for Superannuation and Managed Investment Products](#)
- 001 04/01/2010 [Government Welcomes Productivity Commission Report on Executive Remuneration](#)
- 002 04/01/2010 [Abbott and Joyce Split on Executive Remuneration](#)
- 003 15/01/2010 [Government Welcomes Johnson Report on Australia as a Financial Services Centre](#)

**Treasury**

- 08-12-2009 [Assistant Treasurer Media Release No.104 of 2009 - Australia and Canada Begin Work to Update Tax Treaty](#)

The Assistant Treasurer, Senator the Hon Nick Sherry has announced that Australia and Canada have begun negotiations to update their existing tax treaty and has invited public submissions on updating this treaty.

- 10-12-2009 [Press Release No. 4 2009 - Treasury Economic Roundup: Issue 4 2009](#)

The abstract for this content item contains formatting that cannot be displayed in this list. Please follow the hyperlink to the item for more detail.

- 16-12-2009 [Australia-Aruba Tax Information Exchange Agreement](#)

The abstract for this content item contains formatting that cannot be displayed in this list. Please follow the hyperlink to the item for more detail.

- 16-12-2009 [Australia-Samoa Tax Information Exchange Agreement](#)

The abstract for this content item contains formatting that cannot be displayed in this list. Please follow the hyperlink to the item for more detail.

## Speeches: Treasury and Treasury Ministers

### Treasurer

- 031 18/11/2009 ['Skills and the Recovery' - 2009 Mick Young Oration, Canberra](#)
- 032 04/12/2009 [Address to the AEIOU Foundation's Business Leaders Lunch - Brisbane](#)
- 033 10/12/2009 [Address to the Global Foundation - Brisbane](#)
- 034 11/12/2009 ['Making Every Australian Count' - Launch of Endeavour Foundation Endowment Challenge Fund - Brisbane](#)

### Assistant Treasurer

- 019 17/11/2009 [Building an Agenda for Australia / EU Cooperation, Speech to the Trade and Investment Issues for the 21st Century Conference, Minter Ellison Building, Canberra](#)
- 020 21/11/2009 [Speech to the Small Business Forum, Hobart](#)
- 021 10/12/2009 [Address to the Australian Employee Ownership Association, Unions NSW Auditorium, Sydney](#)

### Minister for Financial Services, Superannuation & Corporate Law & Minister for Human Services

- 011 19/11/2009 [Address to Financial Planning Association National Conference, Melbourne](#)
- 012 23/11/2009 [Speech to Australian American Leadership Conversation, Australian Consulate-General, New York](#)

### Treasury

- 27-11-2009 [An Introduction to the Australian Consumer Law – Address by Dr Steven Kennedy to the Standing Committee of Officials of Consumer Affairs' Forum for Consumer and Business Stakeholders](#)  
This speech was given by Dr Steven Kennedy to the Standing Committee of Officials of Consumer Affairs' Forum for Consumer and Business Stakeholders on 27 November 2009.
- 30-11-2009 [Fiscal Policy: More than Just a National Budget - Address by Dr Ken Henry to the 2009 Whitlam Institute Symposium](#)  
This speech was given by Dr Ken Henry to the 2009 Whitlam Institute Symposium on 30 November 2009.
- 04-12-2009 [The Economic Outlook & the Global Financial Crisis - Mr Tony McDonald to the 2009 Tasmanian Economic Forum](#)  
This speech was given by Mr Tony McDonald to the 2009 Tasmanian Economic Forum on 4 December 2009.
- 08-12-2009 [The Return of Fiscal Policy - Address by Dr David Gruen to the Australian Business Economists Annual Forecasting Conference 2009](#)  
This speech was given by Dr David Gruen to the Australian Business Economists at the Annual Forecasting Conference in Sydney on Tuesday 8 December 2009.

It discusses Australia's recent discretionary fiscal response; the debate on the use of active discretionary fiscal policy; and the longer-term fiscal challenges facing some of the advanced economies of the world.

10-12-2009 [Address by Dr Ken Henry at the 2009 ANU Conferring of Degrees Ceremony](#)

This speech was given by Dr Ken Henry to the 2009 ANU Conferring of Degrees Ceremony on 10 December 2009.

## Media Releases: ATO

20 Nov 2009 [Due dates for income tax bills start next week](#)

The Tax Office today reminded people who received an income tax bill for 2008-09 that payments are due from Monday 23 November. Second Commissioner Bruce Quigley advised people to check their notice of assessment and pay any amount owing by the due date to avoid penalties for late payment.

23 Nov 2009 [Tax Office focus on life insurance policies issued from tax havens](#)

The Tax Office today issued a taxpayer alert warning taxpayers to be cautious about investing in life insurance policies issued from insurance companies based in tax havens, such as Vanuatu.

30 Nov 2009 [New offer for people to declare offshore income](#)

Tax Commissioner Michael D'Ascenzo today said the net is closing on tax havens, as he announced a new offer for people who may not have declared all income from offshore activities.

08 Dec 2009 [Tax Office focusing on discretionary option plan arrangements](#)

The Tax Office today warned people to be wary of arrangements that attempt to artificially create up-front deductions for employment costs through discretionary option arrangements.

15 Dec 2009 [Tax Office to scrutinise offshore superannuation trust arrangements](#)

The Tax Office will closely scrutinise offshore trust structures that masquerade as superannuation funds to avoid tax on money shifted into Australia.

15 Dec 2009 [Ten people sent to jail for more than \\$4.4 million in GST fraud](#)

Ten people have been sentenced to jail since September for separate GST fraud offences, attempting to defraud the community of more than \$4.4 million in revenue.

18 Dec 2009 [Tax Office position on references to Wikipedia](#)

Response to articles concerning reference to Wikipedia in draft taxation determination TD 2009/D18

22 Dec 2009 [Tax Office warns about R&D schemes](#)

The Tax Office today released a taxpayer alert warning people to be cautious of investment schemes that abuse the research and development (R&D) tax offset.

22 Dec 2009 [Tax Office warns about sham mortgage arrangements](#)

The Tax Office today issued a taxpayer alert warning people about sham arrangements promoted as 'mortgage management plans' which promise to help home owners repay their home loan sooner and claim tax deductions to which they are not entitled.

## Speeches: ATO

- 20 Nov 2009 [Eyes on the commercial ball](#)  
Speech by the Commissioner of Taxation to the International CFO Forum, The Mint, Sydney, 20 November 2009.
- 25 Nov 2009 [A proud history: Australia's tax agents' boards](#)  
Speech by the Commissioner of Taxation to mark the closing of the six state Tax Agents Boards. Wednesday, 18 November, 2009.
- 27 Nov 2009 [Mining the common ground](#)  
Speech by Michael D'Ascenzo, Commissioner of Taxation, Australian Taxation Office, to the CPA Australia: Australian Mining and Energy Conference, Gold Coast, Queensland, 27 November 2009.
- 11 Dec 2009 [Two to tango](#)  
Dinner address by Michael D'Ascenzo, Commissioner of Taxation, to the G100, Sydney, 9 December 2009.

## Other developments

### Crackdown on Phoenix Activity

The Assistant Treasurer has issued an Australia-wide warning against fraudulent phoenix activity and released a package of tough new proposals to crackdown on businesses who rip-off of their workers and the general taxpaying community.

Fraudulent phoenix activity involves avoiding the payment of tax liabilities, wages, superannuation and leave entitlements and other responsibilities, such as supplier accounts, through the deliberate liquidation of a company.

The business in question then continues, free of liabilities, in the form of another corporate entity, controlled by the same person or group of individuals. Evidence now shows this is increasingly occurring in a systematic and sometimes cyclical manner.

The package of reforms includes:

- ensuring that there are anti-avoidance provisions in the taxation law to cancel any benefits derived through fraudulent phoenix activity;
- reinstating the failure to remit offence that would make it an offence for an entity not to remit the required PAYG Withholding amounts;
- making it an offence for directors to claim credits in relation to their own income for PAYG Withholding amounts that have not been remitted by the company of which they are a director;
- extending the promoter penalty regime to provide a disincentive to those who promote fraudulent phoenix activity;
- expanding ASIC's powers to disqualify directors;
- expanding the role of the director penalty notice to impose stricter liabilities on directors and to cover a broader range of taxes and superannuation guarantee payments;

Full details of the package of proposals can be obtained at [www.treasury.gov.au](http://www.treasury.gov.au).

### Superannuation guidance: NTLG Superannuation Sub-group meeting – Meeting minimum pension payments

If a fund trustee fails to physically pay sufficient pension payments to meet the minimum pension obligations under SIS Regulation 1.06, is it acceptable for the fund to accrue the shortfall in its financial statements and ensure that this additional amount is paid in the following year?

While this has always been a potential problem for funds – resulting in a breach of the requisite subsection of Superannuation Industry (Supervision) Regulations 1994 (SISR) 1.06, the new provisions

of ITAA 1997 make the issue a more significant one. In particular, failure to pay the minimum pension jeopardises the Fund's ability to claim exempt current pension income as this is only available to funds paying pensions that meet the requisite SIS provisions.

According to the ATO, "There is no scope within sub-regulation 1.06(9A) of the SISR whereby the definition of a pension would be met if a pension payment was made in the following year. The definition of a pension will only be satisfied where the total payments in any year meets the SISR standards."

Other issues considered in the meeting include whether a trustee of a fund can reject excess contributions under powers provided by the trust deed, and whether excess contributions tax would still apply purely as a result of an employee receiving superannuation guarantee contributions from a number of different employers.

*Ref: NTLG Superannuation Technical Sub-group minutes – 8 September 2009*

### **Release of Report into Personal Services Tax Laws**

The Assistant Treasurer has released the Board of Taxation's review into whether the tax rules on the alienation of personal services income are proving effective, including in curtailing the use of sham contracting arrangements.

"The Board has concluded that while the current rules have gone some way in achieving their intention of improving integrity and equity in the tax system, the extent of this improvement is inadequate."

The Board has suggested a range of possible reform options:

- introducing a reporting obligation;
- extending the attribution rules to personal services businesses;
- clarifying and simplifying the deduction provisions;
- implementing a test of 'employee-like' manner to clarify who is affected by the rules; and/or
- introducing a deemed labour income approach.

*Ref: Assistant Treasurer's Media Release No.109*

# The New Tax Agent Services Regime

The new tax agent services legislative package consists of the:

- *Tax Agent Services Act 2009* (TASA 2009). The TASA 2009 is the main Act. It establishes the Tax Practitioners Board and provides for the registration of tax agents and BAS agents.
- *Tax Agent Services Regulations 2009* (TAS Regulations 2009). The Regulations contain, among other things, the qualifications and relevant experience requirements for registration.
- *Tax Agent Services (Transitional Provisions and Consequential Amendments) Act 2009* (Transitional Act). This Act deals with the consequential and transitional matters arising from the enactment of the TASA 2009.

Although the provisions enabling the new Tax Practitioners Board to be established commenced on 26 March 2009, the remaining provisions of the new legislation that constitute the new regulatory regime for the registration of tax agents and BAS agents will commence on **1 March 2010**.

The following information is taken from the Tax Practitioners Board's "Frequently asked questions for tax agents".

## What is a tax agent?

Under the new legislation, a tax agent is a person or entity registered under the TASA 2009 to provide a tax agent service.

## What is a 'tax agent service'?

Under the TASA 2009, a tax agent service is any service that relates to:

- ascertaining or advising about the liabilities, obligations or entitlements of an entity under a taxation law; or
- representing an entity in their dealings with the Commissioner of Taxation; and

that is provided in circumstances where it is reasonable to expect that the entity will rely on it to satisfy liabilities or obligations under a taxation law, or to claim entitlements under a taxation law.

A tax agent service therefore includes, but is not limited to:

- preparing or lodging a return, notice, statement, application or other document about a taxpayer's liabilities, obligations or entitlements under a taxation law;
- preparing or lodging on behalf of a taxpayer an objection under Part IVC of the *Taxation Administration Act 1953* (TAA 1953) against an assessment, determination, notice or decision under a taxation law;
- applying to the Commissioner or the Administrative Appeals Tribunal for a review of, or instituting an appeal against, a decision on an objection under Part IVC of the TAA 1953;
- giving a taxpayer advice about a taxation law that the taxpayer can reasonably be expected to rely upon to satisfy their taxation obligations; and
- dealing with the Commissioner on behalf of a taxpayer.

## Registration of tax agents

Only those entities providing tax agent services for a fee need to register. This means, for instance, that people providing tax agent services for their employer (and are paid a wage for their services) do not need to register.

## Who can be registered as a tax agent?

The new legislation makes provision for the following to be registered as tax agents:

- individuals (including those in the capacity of a trustee of a trust);
- partnerships; and
- companies (including those in the capacity of trustee of a trust).

## How do I register as a tax agent under the new legislation?

Once the provisions of the TASA 2009 and the Transitional Act relating to registration commence, you can apply to the Tax Practitioners Board for registration. You will be required to use a form approved by the Board, include any documentation required by the Board and pay the prescribed registration fee.

The TAS Regulations 2009 include fees of:

- \$500 – for registration as a tax agent who carries on a business as a tax agent; and
- \$250 – for registration as a tax agent who does not carry on a business as a tax agent.

The Tax Practitioners Board may impose one or more conditions on the registration of a tax agent concerning the subject area in which that entity provides tax agent services.

## Eligibility requirements

An **individual** aged 18 years or more is eligible for registration as a registered tax agent if the Tax Practitioners Board is satisfied that the individual:

- (a) is a fit and proper person; and
- (b) meets the requirements prescribed by the regulations, including requirements relating to qualifications and experience.

A **partnership** is eligible for registration if the Board is satisfied that:

- (a) each partner who is an individual is:
  - (i) aged 18 years or more;
  - (ii) a fit and proper person;
- (b) if a company is a partner:
  - (i) each director of the company is a fit and proper person;
  - (ii) the company is not under external administration; AND
  - (iii) the company has not been convicted of a serious taxation offence or an offence involving fraud or dishonesty during the previous five years
- (c) the partnership has a sufficient number of individuals, being registered tax agents, to provide tax agent services to a competent standard and to carry out supervisory arrangements.

A **company** is eligible for registration if the Board is satisfied that:

- (a) each director of the company is a fit and proper person;
- (b) the company is not under external administration;
- (c) the company has not been convicted of a serious taxation offence or an offence involving fraud or dishonesty during the previous five years; and
- (d) the company has a sufficient number of individuals, being registered tax agents, to provide tax agent services to a competent standard and to carry out supervisory arrangements.

## What is 'fit and proper'?

To be eligible for registration under the new legislation, the Tax Practitioners Board must be satisfied that an applicant is a fit and proper person. The fit and proper person requirement applies to individuals, each individual partner (for partnerships) and each director of a company (for partnerships/companies).

In deciding whether an individual is a fit and proper person, the Board must have regard to whether:

- the individual is of good fame, integrity and character
- an event affecting the individual's continued registration happened to the individual in the past five years
- the individual had the status of an undischarged bankrupt at any time during the previous five years
- the individual had served any part of a term of imprisonment, in whole or in part, at any time during the previous five years.

An 'event affecting an entity's continued registration' occurs if the entity:

- is convicted of a serious taxation offence
- is convicted of an offence involving fraud or dishonesty
- is penalised for being a promoter of a tax exploitation scheme (under S.290-50(1) of Schedule 1 to the TAA 1953);
- is penalised for implementing a scheme that has been promoted on the basis of conformity with a product ruling in a way that is materially different from that described in the product ruling (under S.290-50(2) of Schedule 1 to the TAA 1953);
- becomes an undischarged bankrupt or goes into external administration (as defined in the *Corporations Act 2001*); or
- is sentenced to a term of imprisonment.

What does a 'sufficient number of individuals' for partnerships and companies mean?

There is no set formula for determining the number of registered individuals that a company or partnership is required to have to satisfy this requirement.

The Tax Practitioners Board may provide further guidance on adequate staffing and supervision from time to time.

In providing such guidance, the Board may take into account factors that may include, but are not limited to the:

- size of the business;
- services being offered;
- conditions that may be imposed on the entity's registration; and
- supervisory arrangements in place.

What are the qualifications and experience requirements for tax agents under the new legislation?

To be eligible for registration as a tax agent, an individual must meet the conditions relating to one of the following requirements prescribed in Schedule 2, Part 2 of the TAS Regulations 2009:

- tertiary qualifications in accountancy
- tertiary qualifications in another discipline – specialists
- diploma or higher award
- tertiary qualifications in law
- work experience
- membership of professional association.

See Schedule 2, Part 2 of the TAS Regulations 2009.

## Transitional arrangements

### What happens to a tax agent's existing registration under the new legislation?

If, as of 1 March 2010, you are registered as a tax agent, your registration will continue in force and will expire on the same day that it would have expired under the old law.

You will be subject to the provisions of the TASA 2009. This includes the code of professional conduct in S.30-10 of the TASA 2009 and the civil penalty provisions in Part 5 of the TASA 2009.

### What happens to a tax agent nominee's existing registration under the new legislation?

The concept of 'nominee' has been removed from the TASA 2009. Therefore, if you are currently registered as a nominee of a tax agent, you will be taken to be a registered tax agent under the new law from 1 March 2010 provided your registration does not cease before the new legislation starts. Your registration will continue as it would have under the old law – that is, for as long as the tax agent's registration under which you were registered continues in force.

You will be subject to the provisions of the TASA 2009. This includes the code of professional conduct and the civil penalty provisions.

### What will happen to pre-1988 tax agents and nominees under the new legislation?

The special treatment of pre-1988 tax agents is preserved under the new law.

If you are currently registered as a tax agent or nominee of a tax agent and were an individual who was registered under Part VIIA of the ITAA 1936 immediately before the commencement of S.39 of the *Taxation Laws Amendment Act (No. 2) 1988* on 1 November 1988, you will be taken to be a registered tax agent under the new law from the day the new law comes into effect provided your registration does not cease before the new legislation starts.

You are eligible for registration as a tax agent despite not meeting the prescribed educational qualifications and relevant experience requirements for registration. You must however meet the other registration requirements.

### What are the transitional arrangements for tax agent registration?

In addition to ensuring that tax agent and nominee registrations continue in force when the new law commences, during the transitional period there are three ways in which a tax agent may become registered under the new legislation.

1. Applying for tax agent registration under the TASA 2009
2. Notifying the Tax Practitioners Board under the Transitional Act
3. Applying for tax agent registration under the Transitional Act.

The Board may impose conditions on these registrations and may require the registered entity to maintain professional indemnity insurance. These entities will be subject to the provisions of the TASA 2009, except where otherwise provide by the Transitional Act (see below), including the code of professional conduct and civil penalty provisions.

### 1. Applying for tax agent registration under the TASA 2009

Although not strictly a transitional arrangement, it is important to note that if an applicant meets the criteria for registration as a tax agent under S.20-5 of the TASA 2009, including the requirements prescribed by the TAS Regulations 2009 (relating to qualifications and experience), they may, from 1 March 2010, apply for tax agent registration.

### 2. Notifying the Board under the Transitional Act

Under this transitional arrangement, an entity that notifies the Board, within the prescribed time, that the entity meets certain conditions, does not have to meet the registration requirements and will be taken to be registered for a two (2) year period beginning on 1 March 2010.

This applies to an entity that was, immediately prior to 1 March 2010, providing a 'tax agent service' within the meaning of the new law (other than a 'BAS service') but was not required to be registered as a tax agent under the old law (i.e., because under the new law the definition of 'tax agent services' has expanded).

If this transitional arrangement applies to an entity, that entity has three (3) months from 1 March 2010 to notify the Board, in the approved form, that this transitional arrangement applies to the entity.

### 3. Applying for tax agent registration under the Transitional Act

Under this transitional arrangement, an entity that applies for registration under the new law, within the prescribed time, and meets certain conditions, will be eligible for registration under the new law without having to satisfy certain registration requirements.

This applies to an entity that was, immediately before commencement, providing a tax agent service within a particular area of the taxation laws and was providing that tax agent service to a competent standard for a reasonable period before an application is made;

An entity must apply for registration under the new law within six (6) months from 1 March 2010 for this transitional arrangement to apply. The effect of this transitional arrangement is that the entity is not required to satisfy the registration requirements relating to:

- in the case of an individual – the requirements prescribed by the TAS Regulations 2009, including, but not limited to, requirements relating to qualifications and experience; or
- in the case of a company or partnership – the requirement that the partnership or company has a sufficient number of registered individuals to provide tax agent services and carry out supervisory arrangements.

If registered, the entity's registration will continue for a period of at least three (3) years.

## Legal responsibilities of tax agents

Registered entities will be subject to the provisions of the TASA 2009. This includes the code of professional conduct in S.30-10 and the civil penalty provisions in Part 5.

It is likely that guidance in relation to these responsibilities under the new legislation will be released by the Tax Practitioners Board once the Board is established.

### What is the code of professional conduct?

The code of professional conduct is a legislated code contained within the TASA 2009 which sets out the professional and ethical standards required of tax agents and BAS agents. It outlines the duties that agents owe to their clients, the Tax Practitioners Board and other agents.

The code applies to all registered tax agents and BAS agents.

Does the new legislation require a tax agent to audit clients' records?

Tax agents are only required to take reasonable care in ascertaining their clients' state of affairs to the extent that the state of those affairs is relevant to the service that they have been engaged to provide. Therefore, the requirement is subject to the scope of the engagement between a tax agent and their client.

Will a tax agent be required to maintain professional indemnity insurance?

The TASA 2009 provides that the Tax Practitioners Board may require a registered tax agent to maintain professional indemnity insurance.

The Board may specify the professional indemnity insurance a registered tax agent is required to maintain.

What are the civil penalty provisions?

Division 50 of the TASA 2009 contains civil penalty provisions. If an entity breaches a civil penalty provision, the Tax Practitioners Board may apply to the Federal Court for an order that the entity pay a pecuniary penalty.

Subject to the provisions of Division 50 of the TASA 2009, an entity will contravene a civil penalty provision if the entity:

- provides a tax agent service, including a BAS service, for a fee while not being registered under the TASA 2009 to provide that service
- advertises that they can provide a tax agent service, including a BAS service, while not being registered under the TASA 2009 to provide that service
- represents themselves as being a registered tax agent or BAS agent when, in fact, that entity is not a registered tax agent or BAS agent.

Subject to the provisions of Division 50 of the TASA 2009, where the entity is a registered tax agent or BAS agent, the entity will contravene a civil penalty provision if the entity:

- makes false or misleading statements to the Commissioner
- employs or uses the services of a de-registered entity
- signs a declaration or statement that was prepared by an unregistered entity that was not working under the supervision or control of a registered tax agent or BAS agent.

## Further information

Further information will be released as it becomes available on the Tax Practitioners Board's website at [www.tpb.gov.au](http://www.tpb.gov.au).

## Useful links

[Tax Agent Services Act 2009](#)

[Tax Agent Services Regulations 2009](#)

[Tax Agent Services \(Transitional Provisions and Consequential Amendments\) Act 2009](#)

[Tax Agent Services Bill 2008 Explanatory Memoranda](#)

[Frequently asked questions for tax agents](#)