



EDITION 05 | 20 February 2012



## Chartered Accountants Tax Bulletin

### TAX HEADLINES

#### Commissioner's discretion to delay paying refunds pending verification checks – exposure draft released

On 15 February 2012, Assistant Treasurer, Senator Mark Arbib, released for public consultation draft legislation to provide the Commissioner with a legislative discretion to hold and verify refunds prior to payment. The amendment follows the adverse decision in the *Multiflex* GST case, however the amendment will apply to all taxes. [READ ARTICLE >](#)

Sponsor link



**Australian Legal & Financial Summit 2012**  
Find out more

When registering, please indicate you are a member/associate of the Institute of Chartered Accountants in Australia and provide your ID number in the "Other requirements" field. If registering via the downloadable Registration Form, please tick 'yes' at "Did you find out about this summit through an ICAA promotion".

### INSTITUTE NEWS

#### Submission on the FBT reform: Living-away-from-home benefits consultation paper

On 15 February 2012, the Institute lodged a submission on the consultation paper, *Fringe Benefits Tax (FBT) Reform: Living-away-from-home benefits*. In our submission, we outlined various concerns with the design of the proposed new law and suggested alternative measures. A key issue which also deserved further consideration was appropriate transitional arrangements for the proposed new law. [READ ARTICLE >](#)

#### Joint submission on TD 2012/D1 – Division 7A - income tax, present legal obligation

The Institute lodged a joint submission on TD 2011/D12 on 17 February 2012. The draft TD concerns when income tax of a private company is a 'present legal obligation' for the purposes of the distributable surplus calculation under subsection 109Y(2) of Division 7A of Part III of the *Income Tax Assessment Act 1936*.

[READ ARTICLE >](#)

#### Joint submission on GSTD 2011/D5 - retail foreign currency exchange transactions

On 17 February 2012, the professional bodies lodged a joint submission on Draft Goods and Services Tax Determination GSTD 2011/D5 (Draft determination) concerning whether acquisitions related to retail foreign currency exchange transactions with customers in Australia are made solely for a creditable purpose under section 11-15 of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act). [READ ARTICLE >](#)

#### Revenue Group stakeholder consultation meeting - minutes released

On 20 February 2012, Treasury released the minutes of the Revenue Group stakeholder consultation meeting held on 6 December 2011. The Institute attended the meeting, represented by Tax Counsel, Yasser El-Ansary. Consultation meetings are held twice a year with representatives from the tax profession, business and community groups. [READ ARTICLE >](#)

#### NTLG Dispute Resolution Sub-committee meeting on 13 February 2012

A meeting of the NTLG Dispute Resolution Sub-committee was held on 13 February 2012. Matters discussed include the drafting of an ATO Dispute Management Plan to provide an overview of factors in a tax dispute, the perceived increase in penalty cases proceeding to litigation, and an update on the 'Transforming Tax Technical Decision Making Project' to improve technical decision making in ATO compliance lines. [READ ARTICLE >](#)

### CASES

Below are the latest tax cases:

#### > Decision Impact Statements – 17 February 2012

The ATO has issued Decision Impact Statements for *Mold* (use of substantiation evidence, voluntary disclosure), *Mackay* (GST and hunting trophies) and *Naidu* (GST on supply of property). [READ DIS UPDATE >](#)

[READ ALL CASES >](#)

## ATO RULINGS

> View all ATO Tax Rulings, Determinations, Practice Statements, ATO Interpretative Decisions and related items for the week ended 17 February 2012. [READ ALL RELEASES >](#)

> Comments are sought for draft Rulings/Determinations released. [VIEW ALL DRAFTS FOR COMMENT >](#)

## ATO PUBLICATIONS

View all **ATO publications** during the week ended 17 February 2012, including the following important updates:

> **Draft Commissioner's Small Business Consultative Group minutes - 1 December 2011** - Draft minutes of the Commissioner's Small Business Consultative Group meeting held on 1 December 2011.

> **Payslip reporting of superannuation contributions** - This measure will amend legislation to require employers to report, on payslips, any information prescribed in the regulations about superannuation contributions.

[READ ALL PUBLICATIONS >](#)

## OTHER TAX NEWS

### Improving the operation of tax hedging provisions – discussion paper released

On 15 February 2012, Treasury released a discussion paper on improving the operation of the Taxation of Financial Arrangements (TOFA) tax hedging provisions. The discussion paper canvasses implementation options for the announced amendments to the TOFA tax hedging provisions and discusses 4 key hedging issues including interactions between tax hedging rules and other TOFA elective tax-timing methods.

[READ ARTICLE >](#)

### GST and the Mortgagee or Charge sale of a corporation's property – exposure draft released

On 14 February 2012, Treasury released exposure draft legislation and explanatory materials seeking to clarify that Division 105 of the GST Act operates to the exclusion of Division 58 of the GST Act where a mortgagee in possession or control sells the property of a corporation. [READ ARTICLE >](#)

### Miscellaneous amendments to the taxation laws – exposure draft released

On 13 February 2012, Treasury released exposure draft miscellaneous amendments to the taxation laws which include minor amendments to the proposed minerals resource rent tax legislation. The amendments seek to ensure the law operates as intended by correcting technical or drafting defects, removing anomalies and addressing unintended outcomes.

[READ ARTICLE >](#)

### Call for comprehensive tax reform in Australia – motion passed

On 16 February 2012, Independent Lyne MP Rob Oakeshott issued a press release welcoming the passing of his Private Member's Motion by the House of Representatives which calls for comprehensive tax reform in Australia. [READ ARTICLE >](#)

## TRAINING

### Tax and Insolvency Day 2012

Perth, Melbourne, Sydney, Brisbane and via LiveOne, March 2012

[Check out Navigate Online >](#)

[SEE ALL TRAINING >](#)

## BLOG ARTICLE LIZ WESTOVER



13 February 2012 | **A super impact on policy development:** Good policy development in superannuation weighs up the pros and cons of changes to the super system and determines how it will impact on other areas of the community.

[READ BLOG >](#)

### Disclaimer:

The Institute has created and maintains this tax bulletin as a service to its members and the community. While some of the information provided is about legal issues and legislation, it is not legal advice. The Institute does not expect or invite any person to act or rely on any statement, view or opinion expressed in this bulletin, and readers should make and rely on their own inquiries in making any decisions or giving any advice.

The Institute accepts no responsibility for any errors or omissions contained in this bulletin, and disclaims all warranties with regard to the information at this bulletin, including all implied warranties of merchantability and fitness for a particular purpose. In no event shall the Institute be liable for any loss or damage arising out of or in connection with the use of this bulletin or the information contained in it, including special, indirect or consequential loss or damage, and whether such loss or damage arises in contract, negligence, tort, under statute, or otherwise.

The material provided in this bulletin is protected by copyright. Apart from any use permitted under the Copyright Act 1968, no part of any material may be reproduced or provided to the public or to any person, in any form or by any means, without written permission from the Institute or the relevant copyright owner.

Any information provided to the Institute in connection with this bulletin shall be provided by the submitter and received by the Institute on a non-confidential basis. The Institute shall be free to reproduce, use, disclose and distribute this information to others without limitation.