

Taxation Agreement with Singapore

Introduction

- 3.1 The purpose of the *Second Protocol Amending the Agreement between the Government of the Commonwealth of Australia and the Government of the Republic of Singapore for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income as amended by the Protocol of 16 October 1989* is to update the Exchange of Information (EOI) provisions (Article 19) in the existing taxation agreement between Australia and Singapore.
- 3.2 The provisions are intended to improve the ability of the Australian Taxation Office (ATO) to exchange information with Singapore authorities by:
- expanding the taxes in respect of which information may be exchanged to all federal taxes rather than just the income taxes covered under the existing agreement; and
 - ensuring that neither Singapore nor Australia's tax authorities can refuse to provide the information solely because they do not have a domestic interest in such information, or because a bank or similar institution holds the information.¹

¹ National Interest Analysis (NIA), para 6.

Reasons to take treaty action

- 3.3 The Second Protocol will update the current agreement with Singapore and bring it into line with the internationally agreed tax standards developed by the OECD. Treasury advised the Committee that the enhanced provisions will contribute to Australia's efforts to combat offshore tax evasion by increasing the probability of detection.²
- 3.4 Treasury also advised that while Singapore is not considered overly significant in terms of tax evasion by Australians, the agreement was important:
- ... as a matter of closing off avenues for people who wish to take advantage of these jurisdictions by moving their money to further disguise or hide the source from the Australian government and the Australian Tax Office.³

Obligations

- 3.5 Article I(1) creates reciprocal obligations for the exchange of information that is foreseeably relevant for carrying out the agreement or to the administration and enforcement of each Party's domestic tax laws.⁴
- 3.6 Parties are obliged to treat such information as secret in the same manner as information obtained under the domestic laws of that State (Article I(2)).⁵
- 3.7 Article I(3) provides for either Party to decline a request for information in certain circumstances, for example, if the information would disclose a trade or business secret or breach human rights obligations.⁶ Some of the circumstances where a request might be denied include if the request was:
- contrary to public policy. For example, in Australia, if it were to expose a person to the death penalty;
 - outside what was permitted under domestic laws; and

2 Mr Michael Atfield, *Transcript of Evidence*, 1 February 2010, p. 23.

3 Mr John Meyer, *Transcript of Evidence*, 1 February 2010, p. 24.

4 NIA, para 8.

5 NIA, para 9.

6 NIA, para 10.

- not foreseeably relevant (ie, a ‘fishing expedition’).⁷

3.8 The Committee notes that this agreement provides for the spontaneous exchange of relevant information between jurisdictions. Unlike other recently concluded agreements with low-tax jurisdictions, the exchange of information is not contingent upon a specific request for information being made.⁸

Costs and implementation

3.9 Treasury advised that the estimated revenue impact of the Second Protocol is unquantifiable. However, as the Second Protocol is expected to expand the taxpayer information available to the ATO, it is anticipated to result in enhanced taxpayer compliance and additional tax revenue.⁹

3.10 There will be a minimal increase in the ATO’s administrative costs resulting from implementation of the Second Protocol. There is expected to be little or no change in ongoing compliance costs for Australian taxpayers.¹⁰

3.11 Implementation will require amendment to the *International Tax Agreements Act 1953* to give the Second Protocol the force of law in Australia. The Protocol will not affect the existing roles of the Commonwealth or the States and Territories in tax matters.¹¹

Consultation

3.12 Relevant Commonwealth Ministers and the ATO were consulted in development of the Agreement. The Committee notes that at the time of preparation of the National Interest Analysis, the agreement was yet to appear on the six-monthly schedule of treaties provided to the States and

7 Mr Gregory Wood, *Transcript of Evidence*, 1 February 2010, p. 25; Mr Michael Atfield, *Transcript of Evidence*, 1 February 2010, p. 25.

8 Mr Michael Atfield, *Transcript of Evidence*, 1 February 2010, p. 24; Mr Gregory Wood, *Transcript of Evidence*, 1 February 2010, p. 25.

9 Mr Michael Atfield, *Transcript of Evidence*, 1 February 2010, p. 24.

10 NIA, paras 16 and 17.

11 NIA, paras 13 and 14.

Territories. As the Second Protocol addresses administrative matters only, public consultation was not undertaken.¹²

Conclusion and recommendation

- 3.13 The Committee recognises the importance of updating and enhancing taxation agreements with countries such as Singapore in the interests of increasing tax transparency. The Committee therefore supports binding treaty action being taken.

Recommendation 2

The Committee supports the *Second Protocol amending the Agreement between the Government of the Commonwealth of Australia and the Government of the Republic of Singapore for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income as amended by the Protocol of 16 October 1989* and recommends that binding treaty action be taken.

¹² NIA, paras 21 to 24.