



THE SENATE
CANBERRA ACT 2600

SELECTION OF BILLS COMMITTEE

REPORT NO. 6 of 2007

29 March 2007

MEMBERS OF THE COMMITTEE

Senator Jeannie Ferris (Government Whip, Chair)

Senator George Campbell (Opposition Whip)

Senator Andrew Bartlett (Australian Democrats Whip)

Senator Fiona Nash (The Nationals Whip)

Senator Rachel Siewert (The Australian Greens Whip)

Senator the Hon. Eric Abetz

Senator Joe Ludwig

Senator Stephen Parry (Deputy Chair)

Senator Ruth Webber

Secretary: Richard Pye
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SELECTION OF BILLS COMMITTEE

REPORT NO. 6 OF 2007

1. The committee met in private session on Thursday, 29 March 2007 at 3.15 pm.
2. The committee resolved to recommend—That—
 - (a) the *provisions* of the Corporations (NZ Closer Economic Relations) and Other Legislation Amendment Bill 2007 be *referred immediately* to the Economics Committee for inquiry and report by 4 May 2007 (see appendix 1 for a statement of reasons for referral);
 - (b) the *provisions* of the Families, Community Services and Indigenous Affairs Legislation Amendment (Child Support Reform Consolidation and Other Measures) Bill 2007 be *referred immediately* to the Community Affairs Committee for inquiry and report by 8 May 2007 (see appendix 2 for a statement of reasons for referral);
 - (c) the *provisions* of the Native Title Amendment (Technical Amendments) Bill 2007 be *referred immediately* to the Legal and Constitutional Affairs Committee for inquiry and report by 8 May 2007 (see appendix 3 for a statement of reasons for referral);
 - (d) the *provisions* of the Tax Laws Amendment (2007 Measures No. 2) Bill 2007 be *referred immediately* to the Economics Committee for inquiry and report by 30 April 2007 (see appendix 4 for a statement of reasons for referral).

The committee recommends accordingly.

3. The committee deferred consideration of the following bills to its next meeting:
 - Governance Review Implementation (Science Research Agencies) Bill 2007
 - Great Barrier Reef Marine Park Amendment Bill 2007.

(Stephen Parry)
Deputy Chair
29 March 2007



THE SENATE

CANBERRA ACT 2600

SELECTION OF BILLS COMMITTEE

Proposal to refer a bill to a committee

Name of bill: Corporations Amendment (N Z Closer Economic Relations) And Other Legislation Amendment Bill 2007

Reasons for referral/principal issues for consideration: Consideration of the bill as necessary.

Possible submissions or evidence from:

Committee to which bill is to be referred: Economics

Possible hearing date (s):

Possible reporting date: 4 May 2007

(signed)


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Whip/Selection of Bills Committee member

The Bill will amend the *Corporations Act 2001* to further support closer economic relations between Australia and New Zealand through greater co-ordination by respective regulators. The initiatives included in the Bill are consistent with the Australia - New Zealand Closer Economic Relations Trade Agreement and also formalise the work programme attached to the Memorandum of Understanding on the Coordination of Business Law between Australia and New Zealand.

The Bill provides for four key initiatives:

- mutual recognition of securities offerings;
- reduced lodgement requirements for certain foreign companies carrying on business in Australia;
- information-sharing between the Australian Competition and Consumer Commission (ACCC) and other agencies, bodies and persons; and
- the protection of certain information which is given to, or obtained by, the Commission.

The mutual recognition scheme embodied in the Bill is intended to reduce duplicated regulation, and thereby facilitate investment between the two countries, enhance competition in capital markets, reduce costs for business and increase choice for investors.

The initiatives relating to the mutual recognition of securities offerings and lodging of documents have been exposed for public comment in November 2006 in the form of an Exposure Bill. The initiatives in respect of the ACCC information-sharing and protection of information follow a Productivity Commission report on *Australian and New Zealand Competition and Consumer Protection Regimes* and close consultation with key stakeholders.



THE SENATE
CANBERRA ACT 2600

SELECTION OF BILLS COMMITTEE

Proposal to refer a bill to a committee

Name of bill: Families, Community Services And Indigenous Affairs Legislation
Amendment (Child Support Reform And Other Measures) Bill 2007

Reasons for referral/principal issues for consideration:
Consideration of the bill as necessary.

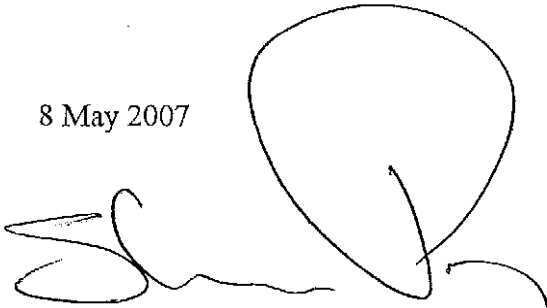
Possible submissions or evidence from:

Committee to which bill is to be referred: Community Affairs

Possible hearing date (s):

Possible reporting date: 8 May 2007

(signed)


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Whip/Selection of Bills Committee member

**FAMILIES, COMMUNITY SERVICES AND INDIGENOUS AFFAIRS
LEGISLATION AMENDMENT (CHILD SUPPORT REFORM CONSOLIDATION
AND OTHER MEASURES) BILL 2007**

Extension of the assets test exemption period

The bill amends the social security and veterans' entitlements legislation. Currently, the proceeds of the sale of a principal home is assets test exempt if the person is likely to use the proceeds to buy or build another home within 12 months. This measure extends this exemption to up to 24 months.

This measure is intended to address community concern that, in some markets, the average time to build homes is extending. Also, in the event of a natural disaster, the reduced supply of housing and increased demand for labour in the building industry can increase the time it takes for a house to be purchased, re-built, or repaired.

Amendments relating to income streams

This bill amends the *Social Security Act 1991* to make a number of minor amendments aimed at enhancing and improving the efficiency and effectiveness of various income streams rules.

Baby bonus amendments

In November 2006 the Government announced it would move to introduce payment of the Baby Bonus (\$4,100) by instalment for mothers under 18, in response to community concern about the vulnerability of younger mothers.

Since January 2007 payment by instalments has been the preferred option for this age group, but implemented by changed Centrelink guidelines. The bill amends the family assistance law to:

- ensure that under-18 year olds are paid the baby bonus in 13 fortnightly instalments;
- require registration of the birth with the relevant state/territory authority as a condition of eligibility for the baby bonus; and
- rename the maternity payment to 'baby bonus'.

Portability of family tax benefit

Changes are being made to allow the FTB portability period of 13 weeks for full payment to be extended for members of the Australian Defence Force and certain Australian Federal Police personnel of the International Deployment Group who are deployed overseas as part of their duties and, as a result, remain overseas for longer than 13 weeks.

Child support consolidation amendments

The bill makes minor consolidating refinements to the child support scheme, and some minor consequential amendments to the family assistance law, to clarify and refine the operation of the government's major 2006 legislation that restructured the scheme in line with the recommendations of the Ministerial Taskforce on Child Support, chaired by Professor Patrick Parkinson. It also clarifies a small number of pre-existing issues or anomalies with the operation of the scheme.

Relocation of measures from the Child Support Legislation Amendment Bill 2004

This bill contains amendments, relocated from the Child Support Legislation Amendment Bill 2004, that are still required in light of the Child Support Taskforce reforms. The 2004 bill, which will now no longer be needed, was introduced in late 2004 but its passage was delayed, largely because the imminent Taskforce reforms overshadowed it. The measures from the 2004 bill now incorporated in this bill are:

- move into the primary child support legislation provisions currently contained in regulations relating to overseas maintenance arrangements (thus, honouring a commitment made by the government during passage of the enabling provisions for the regulations); minor or consequential amendments to the family law legislation are also being made;
- make amendments to improve equity between parents in access to court in relation to decisions about parentage of a child and to streamline certain review processes; and
- make various child support minor policy refinements and technical corrections.

Maintenance income test

The bill amends the maintenance income test provisions in the *A New Tax System (Family Assistance) Act 1999*. These amendments:

- clarify the meaning of 'amount received' and 'amount payable' in the formula used to work out the notional amount of maintenance income an individual is taken to have received under a child support agreement or court order where there is an underpayment of child support that is registered for collection by the Child Support Agency;
- clarify that maintenance income received by a payee for one or more children would reduce the payee's amount of family tax benefit (FTB) Part A above the base rate for those children only;
- ensure that the benefits of the maintenance income credit (MIC) are available only where FTB is claimed through Centrelink or Medicare Australia and not through the tax system from the Australian Taxation Office;
- refine the MIC provisions so that they operate as intended; and
- reflect the new FTB treatment under the Child Support Taskforce reforms of child support agreements and lump sum child support in the MIC provisions.

Remote area allowance

The remote area allowance provisions in the *Social Security Act 1991* and the *Veterans' Entitlements Act 1986* are being amended from 1 July 2008 to ensure that an additional allowance is payable for each FTB child and regular care child of a person. This is because the Child Support Reforms have redefined the definition of an 'FTB child'. This measure ensures that children in a parent's care for between 14 and 34 per cent of the time will continue to attract additional RA Allowance.

Dependant and housekeeper rebates, and Medicare levy

Amendments are being made to the *Income Tax Assessment Act 1936* as a consequence of the Child Support Taskforce reforms, which included changes to 'FTB child' and the introduction of a concept of 'regular care child'.

Other minor and technical amendments

The bill also makes various amendments of a minor or technical nature to the social security law and child support Acts.



THE SENATE

CANBERRA ACT 2600

SELECTION OF BILLS COMMITTEE

Proposal to refer a bill to a committee

Name of bill: Native Title Amendment (Technical Amendments) Bill 2007

Reasons for referral/principal issues for consideration: Consideration of the bill as necessary.

Possible submissions or evidence from:

Committee to which bill is to be referred: Legal and Constitutional Affairs

Possible hearing date (s):

Possible reporting date: 8 May 2007

(signed)

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Whip/Selection of Bills Committee member



OFFICE OF THE ATTORNEY-GENERAL

Native Title Amendment (Technical Amendments) Bill 2007

OUTLINE

The primary purpose of this Bill is to implement the technical and minor policy amendments element of the Native Title reform package announced by the Attorney-General on 7 September 2005. The Bill will also implement aspects of two other elements of the reforms, and make some unrelated changes which are consequent on the *Legislative Instruments Act 2003*.

The minor and technical amendments to the *Native Title Act 1993* (the Act) have been developed through extensive consultation with a wide range of stakeholders, including native title representative bodies, industry and farming groups, the National Native Title Tribunal, and the State and Territory Governments. The changes in the Bill reflect the issues raised for consideration by those stakeholders. It is intended that the Bill be referred to the Senate Legal and Constitutional Legislation Committee for consideration and report.

1. Technical and minor policy amendments

Schedule 1 of the Bill contains a large number of separate measures. Most of the amendments will clarify or improve existing provisions of the Act, although there will be some new processes inserted.

2. Native Title Representative Body amendments

Schedule 2 of the Bill will amend provisions relating to native title representative bodies to:

- remove corporate governance obligations imposed on representative bodies where these are already imposed under their incorporation statutes
- improve the process for reviewing decisions by representative bodies not to assist native title claimants and holders, and
- simplify and clarify the process for transferring documents from a former representative body to its replacement.

3. Prescribed Bodies Corporate amendments

Schedule 3 of the Bill will partially implement two recommendations of the Report on Prescribed Bodies Corporate which was released in October last year. Prescribed Bodies Corporate will be able to charge third-parties a fee for costs associated with negotiations. If the Registrar of Aboriginal Corporations considers that a fee is unrelated to services to be provided, the fee may not be charged. It will also be possible to prescribe a government-funded body to act as a 'default' PBC in certain circumstances.

4. Legislative Instruments Act 2003 amendments

Schedule 4 of the Bill will make a number of changes to the Act which are consequential to the operation of the *Legislative Instruments Act 2003*.



THE SENATE
CANBERRA ACT 2600

SELECTION OF BILLS COMMITTEE

Proposal to refer a bill to a committee

Name of bill: Tax Laws Amendment (2007 Measures No.2) Bill 2007

Reasons for referral/principal issues for consideration: Consideration of the bill as necessary.

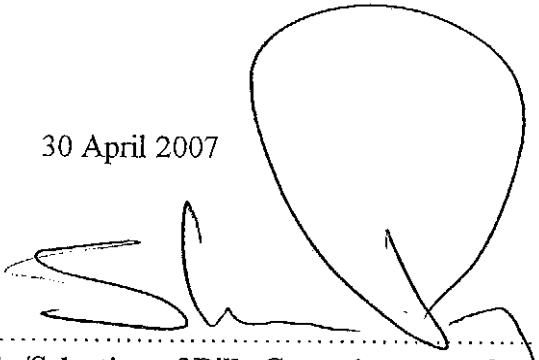
Possible submissions or evidence from:

Committee to which bill is to be referred: Economics

Possible hearing date (s):

Possible reporting date: 30 April 2007

(signed)


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Whip/Selection of Bills Committee member

TAX LAWS AMENDMENT (2007 MEASURES No. 2) BILL 2007

Schedule 1 - Effective life provisions

Existing law and proposed changes

In calculating the depreciation (capital allowance) deduction for the decline in value of assets, taxpayers can generally choose either the Commissioner of Taxation's determination of the effective life of the asset, or they can self-assess the effective life of the asset.

However, these general rules do not apply to certain intangible assets, for which statutory effective lives are prescribed in the legislation. Mining rights were added to this list in 2003, with their effective lives being set to the life of the mine to which they relate.

The legislation prohibits the use of the diminishing value method to calculate the capital allowance deduction for certain asset categories, including all assets with prescribed effective lives, but excluding mining rights. It was intended that taxpayers would be able to use *either* the prime cost method or the diminishing value method to calculate their deductions relating to mining rights.

However, because most intangible depreciating assets are unable to access the diminishing value method, taxpayers may have been under the misconception that this was also the case for mining rights.

The amendments in this Bill put the matter beyond doubt, removing mining rights from the list of intangible assets for which statutory lives are specified, and setting out their treatment separately.

The amendments will allow for the effective life of a mining right to be based on the remaining, rather than the whole life of the existing or proposed mine to which the right relates.

A separate provision will also provide a special rule which will permit taxpayers to choose to recalculate the effective life of their mining right if it is no longer accurate due to changed circumstances relating to an existing or proposed mine.

Examples of changed circumstance could include:

- a considerable structural price change for the mineral being extracted which leads to the mine's premature permanent closure;
- previously uneconomically mineable geologies becoming economically mineable;

- a noticeable improvement in extraction methods or transport arrangements from the mine which leads to faster extraction of the mineral and a consequential shortening of the remaining life of the mine;
- new information becomes available as a result of further exploration or prospecting on the mining tenement as to the presence of minerals likely to be recoverable which leads to an increase in the remaining life of the mine; or
- a change to accepted industry practice affecting the estimated life of the mine.

There will be no requirement in this measure for a regular or periodic re-estimation of the effective life of the mining right to be undertaken, nor will there be any mandatory recalculations required.

Context of changes: The UCA system was introduced on 1 July 2001 and consolidates a range of former capital allowance provisions, including the mining capital allowance provisions previously contained in Division 330 of the ITAA 1997.

Generally under UCA, expenditures incurred by the mining industry are treated on the same basis as expenditures incurred by other industries. However, the UCA system maintains some concessional tax treatments for the mining industry, such as immediate deductions for exploration or prospecting expenditure and special write-off provisions where the capital costs do not create depreciating assets in their own right.

Date of effect: These amendments are to apply from 1 July 2001. This date was the commencement date of the uniform capital allowance system and was the commencement date of the 2003 amendments.

Announced: This measure was announced as part of the 2006-07 Budget.

Financial impact: There is no revenue impact as a result of these amendments as the amendments ensure that the uniform capital allowance system operates as intended for these assets and as originally costed.

Compliance cost impact: These amendments will not involve additional compliance costs.

Schedule 2 - Taxation of boating activities

Existing law and proposed changes

The policy intent is to ensure the taxation system does not subsidise the private use of boats.

The existing law denies deductions for expenses otherwise allowable, where incurred in relation to holding or using a boat unless the boat is used in a specified type of boating business (eg, as trading stock or for transportation). Taxpayers cannot claim GST input tax credits for these expenses.

The proposed law will allow taxpayers to claim deductions for such expenses up to the amount of boating income. Taxpayers can carry any surplus losses forward to offset against boating income in future years.

Further, taxpayers will be able to claim GST input tax credits for these expenses, so long as they meet the normal requirements to claim input tax credits in the GST law.

Date of effect: The proposed changes apply to income years starting on or after Royal Assent.

Announced: The measure was announced in the Minister for Revenue and Assistant Treasurer's Press Release No. 022 of 9 May 2006.

Financial impact: The cost to revenue from these changes is estimated to be \$5 million in 2007-08 and \$6 million in 2008-09 and 2009-10.

This cost arises because taxpayers will now be able to claim deductions for non-business boating expenses up to the level of boating income earned and carry forward any excess losses. The current law denies deductions for all non-business boating expenses.

Compliance cost impact: This measure is expected to impose minor compliance costs because taxpayers need to account for boating expenses to benefit from the measure.

Schedule 3 - Certain expenditure on research and development activities

Existing law and proposed changes

1. Under the current law, companies are unable to object to the amount of R&D tax offset allowed by the Commissioner. This measure creates a right of objection to the allowable tax offset amount. Companies will have the ordinary timeframe which to lodge an objection.
2. Currently, companies are required to choose the R&D tax offset in the income year they wish to receive it. This measure will allow companies to choose the offset by amending previous income year claims by writing to the Commissioner.
3. There is an exception to the \$20,000 minimum expenditure threshold in the R&D Tax Concession for contracted expenditure to a registered research agency. This exception will be extended to companies claiming the R&D tax offset.
4. The R&D tax offset provision may not currently cover all companies in a group as it refers to 'taxpayers'. All companies in a group will now be covered by referring to 'persons'.
5. There is an incorrect section reference in subsection 73H to subsection 72L rather than subsection 73L. This measure corrects this reference.
6. Currently, a group of companies may be eligible for a premium deduction yet no company in the group can access this deduction as no company has increased R&D expenditure over the previous year. Companies will now be able to access this premium deduction if they have increased their expenditure above the average of the past three years.
7. Currently, an entire group of companies will become automatically eligible for the 175 per cent premium incremental concession if a newly acquired company to the group can establish eligibility due to expenditure incurred prior to joining the group. This amendment will restrict eligibility to expenditure that is incurred during the company's membership of the group. This amendment will not affect eligibility being established in this way if the acquisition of the company is a 'viable business transfer'.
8. The R&D provisions refer to a 'start grant' which relates to the ceased R&D Start programme. This will now be replaced with the current Commercial Ready programme.
9. It is possible that a calculation for the premium incremental concession will be negative. As this is a concession it should only provide positive tax benefits to companies. These calculations will now be taken to be zero.
10. A list of deductions in the income tax law does not refer to the 175 per cent premium incremental concession. This measure inserts a reference.

Date of effect: The technical amendments of this measure have various dates of effect.

Announced: The amendments to the R&D provisions were announced as part of the 2006-07 Budget.

Financial Impact: This measure is expected to lead to an additional \$7.0 million per year in R&D tax offset payments and decreased revenue of \$2.5 million per year as a result of the Premium Incremental Concession.

Compliance cost impact: Negligible. As this measure ensures clarity of law and makes technical amendments to the law it is not anticipated to impact on the compliance costs for R&D companies.

Schedule 4 - Donation of listed shares to deductible gift recipients

Existing law and proposed changes

Gifts of property to DGRs, which can include shares, are currently tax deductible if the property is:

- purchased during the 12 months before making the gift, or
- valued by the Commissioner at more than \$5,000.

However, gifts of property, including shares, acquired at least 12 months before making the donation and valued at \$5,000 or less, are currently not tax deductible.

The amendments allow taxpayers a tax deduction where they make a gift or contribution to a DGR of shares in a listed public company that were acquired at least 12 months before the donation, and have a market value of \$5,000 or less. The allowable deduction is the market value of the shares on the day the donor makes the gift.

Date of effect: The changes will apply in the income year commencing on or after the day on which the Act receives the Royal Assent.

Announced: The measure was announced in the Minister for Revenue and Assistant Treasurer's Press Release No. 019 of 9 May 2006.

Financial impact: The cost to revenue from these changes is estimated to be \$10 million in 2008-09 and \$11 million in 2009-10 and 2010-11.

Compliance cost impact: Nil

Schedule 5 - Deductible gift recipients

Existing law and proposed changes

Under the current law, taxpayers can claim income tax deductions for certain gifts to DGRs. To be a DGR, an organisation must fall within a category of organisations set out in Division 30 of the ITAA 1997 or be listed under that Division.

Date of effect:

The measure lists the following organisations as DGRs:

- American Australian Association Limited from 14 November 2006; and
- Bunbury Diocese Cathedral Rebuilding Fund from 19 December 2006 until 18 December 2008.

In addition, this measure extends the DGR listing of The Finding Sydney Foundation until 27 August 2007.

Announced:

The deductibility of gifts to the American Australian Association Limited was announced in the Prime Minister's Media Release of 14 November 2006.

The deductibility of gifts to the Bunbury Diocese Cathedral Rebuilding Fund was announced in the Minister for Revenue and Assistant Treasurer's Press Release No. 098 of 22 December 2006.

The extension for the deductibility of gifts to The Finding Sydney Foundation was announced in the Minister for Revenue and Assistant Treasurer's Press Release No. 082 of 10 November 2006.

Financial impact: The cost to revenue from these changes is estimated to be \$5 million in 2007-08, \$1 million in 2008-09, \$0.7 million in 2009-10 and \$0.6 million in 2010-11 and 2011-12.

Compliance cost impact: Nil.

Schedule 6 - Deductions for contributions relating to fund-raising events

Existing law and proposed changes

Under the current law, the 'minor benefits measure' allows deductions for contributions of certain cash and property to DGRs for eligible fund-raising events where a minor benefit is received in return, so long as the value of the contribution is more than \$250, and the minor benefit received is no more than \$100 and no more than 10 per cent of the value of the contribution, which ever is the less.

The proposed changes extend the eligibility thresholds to allow deductions for contributions of more than \$150, and where the minor benefit received is no more than:

- \$150 or

20 per cent of the value of the contribution,

which ever is the lesser.

Date of effect: These amendments apply for contributions made on or after 1 January 2007.

Announced: These amendments were announced jointly by the Minister for Revenue and Assistant Treasurer and the Minister for Families, Community Services and Indigenous Affairs in Press Release No. 086 of 1 December 2006.

Financial impact: The cost to revenue from these changes is estimated to be \$1.5 million in 2007-08 and \$6 million in 2008-09 and 2009-10.

Compliance cost impact: Nil.

Schedule 7 - Technical amendments and corrections

Existing law and proposed changes

Currently, State, Territory and some Commonwealth bodies are not technically defined as 'exempt entities' under the income tax law, even when they are exempt from tax.

This means that some provisions referring to 'exempt entities' do not operate as intended.

For example, if certain funds (known as Prescribe Private Funds and Public Ancillary Funds) donate money to bodies such as the National Gallery of Victoria or the Sydney Opera house, the fund may lose its tax exempt status. This is because the recipients are not technically 'exempt entities'.

The Bill will correct the defect in the definition of 'exempt entity' by ensuring that it covers all entities exempt under the income tax law.

Date of effect: The measure applies from 1 July 2005 to coincide with the application date of the *Tax Laws Amendment (2005 Measures No. 3) Act 2005*. This means that Prescribe Private Funds and Public Ancillary Funds will be exempt from 1 July 2005, even if they have donated money to State and Territory bodies that were exempt from tax but not technically 'exempt entities'.

Financial impact: Nil. This is because the measure restores the law to its originally intended state.

Compliance cost impact: The measure is expected to reduce compliance costs because it corrects a defect in the current law, reducing uncertainty.

Schedule 8 - Venture capital

Existing law and proposed changes

The existing venture capital regime was introduced in 2002 to provide an incentive for foreign investors from specified countries to invest in the Australian venture capital industry, to develop the Australian industry and to provide a source of equity capital for relatively high risk and expanding businesses which find it difficult to attract investment through normal commercial mechanisms. Eligible foreign resident partners in venture capital limited partnerships or Australian venture capital funds of funds are exempt from tax on their share of the profit or gain made on the limited partnership's disposal of an eligible venture capital investment. The limited partnership is treated as an ordinary partnership rather than as a corporate limited partnership.

The proposed changes relax the eligibility requirements for concessional taxation treatment for foreign residents investing in venture capital limited partnerships and Australian venture capital funds of funds. They also provide taxation concessions for Australian residents and foreign residents investing in early stage venture capital activities through a new investment vehicle called an early stage venture capital limited partnership. The introduction of a new vehicle targeting early stage ventures means that existing concessions provided through the Pooled Development Fund scheme will be closed to new entrants.

Date of effect: The measures apply from the 2007-08 income year and all later years.

Announced: The measures were announced in Treasurer's Press Release No. 037 of 9 May 2006 as a part of the 2006-07 Budget.

Financial impact: The cost to revenue from these changes is estimated to be \$2 million in 2007-08, \$7 million in 2008-09 and \$16 million in 2009-10.

Compliance cost impact: The overall compliance cost impact of the proposal will result in a small increase for implementation and ongoing compliance costs; however, these small costs will be outweighed by the tax benefits available to venture capital investors.