



## Tax Laws Amendment (2006 Measures No. 2) Bill 2006

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## Tax Laws Amendment (2006 Measures No. 2) Bill 2006

**Date introduced:** 29 March 2006

**House:** House of Representatives

**Portfolio:** Treasury

**Commencement:** Some items commenced on the day the Act received Royal Assent (22 June 2006). Other amendments were retrospective and commenced on a previous date. Several items commenced after the commencement of other Acts. The full table of commencement dates is at clause 2 of the Bill.

### Purpose

This is an omnibus Bill which amends various taxation laws. The Bill was passed in the Senate on 15 June 2006 and received Royal Assent on 22 June 2006.

### Main provisions

The Bill includes seven unrelated Schedules which make amendments to various taxation acts. The amendments are briefly outlined below. Further information can be found in the Explanatory Memorandum.<sup>1</sup>

#### Schedule 1 – F-111 De-Seal/Reseal Ex-gratia Lump Sum payments

Schedule 1 amends the *Income Tax Assessment Act 1997* (ITAA 1997) to ensure that ex-gratia lump sum payments made to personnel involved in the F-111 Deseal/Reseal program are exempt from income tax.

This schedule attracted the most comment during debate in the House and Senate. Under the F-111 Deseal/Reseal Ex-gratia Lump Sum Payment program, service and civilian personnel who were exposed to chemicals while working on the F-111 deseal/reseal project receive a payment of either \$10,000 or \$40,000. The government has not accepted any liability for health complaints associated with work on the program. In his Second Reading speech the Assistant Treasurer stated:

The government is making the one-off ex gratia lump sum payments from the 2005-06 income year to certain personnel who experienced a unique working environment in the maintenance of F111 aircraft fuel tanks.

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The payments are made in recognition of the difficulties eligible personnel suffered in the environment in which they worked, regardless of whether there is evidence of any adverse health impacts from that work environment.<sup>2</sup>

Senator Andrew Murray of the Australian Democrats commented:

Clearly there is no price that can be placed on one's health and wellbeing. Whilst I appreciate, to an extent, the government's attempt to address the harm caused to a number of Department of Defence employees in the course of their duty, I must also condemn their corporate style 'admit no liability' approach to this matter. Advice from the F-111 Deseal/Reseal Support Group indicates that the amounts in question are insufficient to help people battling illnesses due to chemical exposure.<sup>3</sup>

### Schedule 2 – Specific gift recipients

Schedule 2 amends ITAA 1997 to add two new organisations to the list of Deductible Gift Recipients (DGRs). Donations made to DGRs are eligible as a tax deduction for individual tax payers. The two organisations added are Playgroup Victoria Inc. and St Michael's Church Restoration Fund (until 23 February 2007).

### Schedule 3 – CGT treatment of options

This Schedule also amends the ITAA 1997 to correct some unintended consequences from the rewrite of the Capital Gains Tax provisions which were part of the Tax Law Improvement Project. The amendments restore the law to ensure that it operates as intended and as it previously applied under the ITAA 1936. Senator Murray commented that this was:

...a reminder that these acts are so complicated that, even when the experts draft the changes, some years later problems and difficulties can be discovered.<sup>4</sup>

### Schedule 4 – Compulsory acquisition

Schedule 4 amends the ITAA 1997 to extend the circumstances in which a taxpayer may choose to obtain a capital gains tax roll-over when an asset is compulsorily acquired. The amendments are backdated to apply to compulsory acquisitions dating after 11 November 1999. This was part of the government's announcement of its Stage 2 response to the Ralph Review of Business Taxation.<sup>5</sup>

The Explanatory Memorandum states that the financial implications of this amendment are unquantifiable. While an initial impact of \$5million per annum is forecast, the Explanatory Memorandum notes that there is expected to be a much larger cost in 2005-06 due to the retrospective start date of the measure, and the fact that the amendments favour the taxpayer in all cases.<sup>6</sup>

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### Schedule 5 – Franking deficit tax

Schedule 5 amends the ITAA 1997 to limit the circumstances in which the franking deficit tax offset is reduced, applying from 1 July 2002 onwards (that is, from the commencement of the simplified imputation system).

### Schedule 6 – Choice of superannuation fund

Schedule 6 amends the *Superannuation Guarantee (Administration) Act 1992* to extend the right to choose a superannuation fund to employees whose superannuation arrangements are determined by state laws. The amendments ensure that employers are not required to make superannuation guarantee contributions to a fund specified in state law, as well as to an employee's chosen fund. In the second reading speech the Assistant Treasurer stated:

The government will override state laws which require employers that are constitutional corporations to make contributions to a superannuation fund specified in that law. This will particularly benefit coalminers in Queensland, Western Australia and New South Wales as employers will be able to contribute to a superannuation fund of an employee's choosing from 1 July 2006.<sup>7</sup>

### Schedule 7 – technical corrections and improvements

Schedule 7 makes technical corrections and amendments to taxation laws. There is no financial impact arising from the corrections.

## Endnotes

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1. Hon. Peter Costello MP, *Explanatory Memorandum: Tax Laws Amendment (2006 Measures No.2) Bill 2006*, 29 March 2006.
2. Hon. Peter Dutton, MP, Minister for Revenue and Assistant Treasurer, 'Second Reading Speech: Tax Laws Amendment (2006 Measures No. 2) Bill 2006', House of Representatives, *Debates*, 29 March 2006, p. 19.
3. Senator Andrew Murray, 'Second Reading Speech: Tax Laws Amendment (2006 Measures No. 2) Bill 2006', Senate *Debates*, 15 June 2006, p. 137.
4. *ibid.*
5. Hon. Peter Costello MP, Treasurer, press release: *The New Business Tax System: Stage 2 Response*, available at: <http://www.treasurer.gov.au/tsr/content/pressreleases/1999/074.asp#M>, accessed 18 December 2006.

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6. Explanatory Memorandum, op. cit.
7. Hon. Peter Dutton MP, op. cit.

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