



## Tax Laws Amendment (Small Business) Bill 2007

Bernard Pulle  
Economics Section

### Contents

Purpose.....	1
Background.....	2
Banks Taskforce Report.....	2
2006-07 Budget measures for small business.....	3
Announcement of the small business tax concessions framework.....	3
Main provisions.....	4
Schedule 1—Small business entities.....	4
Meaning of small business entity.....	4
General comments.....	4
Methods of satisfying the \$2 million aggregated turnover test.....	5
Exception.....	5
Meaning of aggregated turnover.....	5
General rule.....	5
Exclusions.....	6
Meaning of annual turnover.....	6

Application .....	7
Schedule 2—Amendments relating to GST turnover thresholds .....	7
Cash accounting turnover threshold.....	7
Annual apportionment of input tax credits.....	8
Eligibility to pay GST by instalments .....	8
Application .....	8
Schedule 3—STS taxpayers .....	8
Application .....	9
Schedule 4 —Capital gains tax small business concessions .....	9
Application .....	10
Schedule 5—Fringe benefits tax: car parking exemption .....	10
Application .....	11
Schedule 6—PAYG instalments .....	11
Application .....	11
Schedule 7—Roll-over relief.....	11
Application .....	12
Schedule 8—Miscellaneous amendments .....	12
Application .....	12
Concluding comments .....	13
Endnotes.....	15

## Tax Laws Amendment (Small Business) Bill 2007

**Date introduced:** 10 May 2007

**House:** House of Representatives

**Portfolio:** Treasury

**Commencement:** The Act commences on Royal Assent. The commencement and application of the Schedules are dealt with in the Main provisions section of this Bills Digest.

### Purpose

This [Bill](#) implements the [New Small Business Framework](#) for small business entities (SBEs). It has eight schedules and the purpose of each is briefly set out below.

#### **Schedule 1—Small business entities**

The amendments in this Schedule insert **new Subdivision 328-C** into the *Income Tax Assessment Act 1997* (ITAA 1997) and provisions to explain the meaning of ‘small business entity’ (SBE), ‘annual turnover’, ‘aggregated turnover’ and related concepts. These are the basic definitions for the small business framework which the amendments in this Schedule and some of the other Schedules referred to below establish. It also makes consequential amendments.

#### **Schedule 2—Amendments relating to GST turnover thresholds**

This Schedule amends the *A New Tax System (Goods and Services Tax) Act 1999* (the GST Act) relating to various GST turnover thresholds to enable an SBE to access GST concessions of:

- accounting for GST on a cash basis,
- annual apportionment of input tax credits for acquisitions and importations that are partly creditable, and
- paying GST by quarterly instalments and makes consequential amendments.

#### **Schedule 3—STS taxpayers**

The amendments in this Schedule establish the New Small Business Framework in Division 328 of the ITAA 1997 and to signify the change in substance the title of Division 328 of the ITAA 1997 is amended from **STS taxpayers** to **small business entities**. The tax concessions that are available to simplified tax system (STS) taxpayers under current law, namely, the simplified depreciation regime, the simplified trading stock regime and the immediate full deduction for pre-paid expenses, are retained in the concessions under

**Warning:**

*This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.*

*This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.*

the small business framework. This Schedule inserts a new guide to Division 328 which serves as a reference point to all the tax concessions accessible to SBEs under tax law, subject to additional specific conditions.

#### **Schedule 4—Capital gains tax small business concessions**

This Schedule amends the ITAA 1997 to increase from \$5 million to \$6 million the capital gains maximum net assets threshold, for a SBE to access CGT concessions.

#### **Schedule 5—Fringe benefits tax: car parking**

At present the small business car parking exemption is available if the employer has ordinary and statutory income less than \$10 million. **Schedule 5** amends the *Fringe Benefits Tax Assessment Act 1986* (FBTAA 1986) to enable an employer to get the FBT car parking exemption if the employer is either a SBE or if the employer has ordinary and statutory income which is less than \$10 million. The other conditions for eligibility for this exemption remain unchanged.

#### **Schedule 6—PAYG instalments**

This Schedule amends the *Taxation Administration Act 1953* (TAA 1953) so that for full assessment taxpayers the base assessment income threshold is increased from \$1 million to \$2 million for entitlement to make quarterly PAYG instalments on the basis of GDP-adjusted notional tax.

#### **Schedule 7—Roll-over relief**

This Schedule amends Subdivision 328-D of the ITAA 1997 to extend roll-over relief available under the uniform capital allowances system to small business entities who choose to deduct amounts for depreciating assets under Subdivision 328-D.

#### **Schedule 8—Miscellaneous amendments**

This Schedule includes a number of consequential amendments to tax law arising from the changes from the STS system to the small business framework.

## **Background**

### **Banks Taskforce Report**

On 12 October 2005, the Prime Minister and the Treasurer in a [Joint Press Release](#) announced the appointment of a Taskforce headed by Mr Gary Banks to identify practical options for alleviating the compliance burden on business from Commonwealth Government regulation.<sup>1</sup> The report of the Taskforce titled [Rethinking Regulation: Report of the Taskforce on Reducing Regulatory Burdens on Business](#) (the report of the Banks Taskforce) was released on 7 April 2006.<sup>2</sup>

#### **Warning:**

*This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.*

*This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.*

Recommendation 5.43 recommended that the Australian Government should take steps to align and/or rationalise different definitions in the tax law including ‘small business’, ‘employee’, ‘salary and wages’, and ‘associate’.

In the [final response](#) to the Banks Taskforce report, the Australian Government agreed in principle with this recommendation.<sup>3</sup> The response also referred to the 2006-07 Budget, in which the Australian Government announced a number of measures designed to improve the tax system for small businesses by streamlining definitions and reducing complexity and compliance costs.<sup>4</sup>

### 2006-07 Budget measures for small business

The measures announced in the 2006-07 Budget for increasing the tax concessions for small business as well as easing the compliance burden included the following:

- increase the STS annual turnover threshold from \$1 million to \$2 million;
- remove the \$3 million depreciating assets test from the STS eligibility requirements;
- increase the net assets threshold for the CGT small business concessions from \$5 million to \$6 million; and
- allow STS taxpayers to be eligible for the CGT small business concessions without having to satisfy the net assets threshold and to pay quarterly PAYG instalments on the basis of GDP-adjusted notional tax.

### Announcement of the small business tax concessions framework

On 13 November 2006, the Treasurer and the Minister for Small Business and Tourism in a Joint Press Release titled [Making Tax Compliance Easier for Small Business – The New Small Business Framework](#), announced that the Government will introduce legislation to standardise the eligibility criteria for small business tax concessions from 1 July 2007.<sup>5</sup> The press release indicated that the measures now announced go beyond the measures in the 2006-07 Budget as follows:

Separate eligibility tests currently exist for GST, the Simplified Tax System (STS), capital gains tax (CGT), fringe benefits tax (FBT) and pay-as-you-go (PAYG) small business concessions.

As a result of today’s announcement, any business with annual turnover of less than \$2 million will be able to access any of these concessions.

Small businesses will only have to apply one eligibility test to access a range of small business concessions. This demonstrates again the Government’s commitment to reducing red tape and compliance costs for small businesses.

**Warning:**

*This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.*

*This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.*

This proposal incorporates and goes beyond the package of measures to assist small businesses announced in this year's Budget.

The 5 different small business tests under the current structure, shown in the New Small Business Framework, attached to the above mentioned Press Release, to be replaced by a single small business test of less than \$2 million aggregated turnover, are as follows:

Tax	Test under present structure
<b>STS</b>	STS Turnover < \$1 M
<b>GST</b>	GST Turnover < \$1-2 M
<b>CGT</b>	Active assets < \$5 M
<b>FBT</b>	Ordinary income + Statutory income < \$ 10 M
<b>PAYG instalments</b>	Instalment income < \$ 1M

## Main provisions

This section of the Bills Digest will consider the main provisions in the various Schedules which seek to establish the New Small Business Framework.

### Schedule 1—Small business entities

**Item 1 of Schedule 1** inserts **new Subdivision 328-C** into the ITAA 1997 to explain the meaning of small business entity (SBE), annual turnover, aggregated turnover and related concepts. Generally, an entity is a SBE if it carries on business and satisfies the \$2 million aggregated turnover test.

#### Meaning of small business entity

##### General comments

Briefly, the aggregate of the turnover of an entity (the test entity), its connected entities and its affiliates must be less than \$2 million in any income year in order that the test entity may pass the aggregate turnover test in **proposed section 328-110 to qualify as an SBE**. In arriving at the aggregate turnover the turnover attributable to inter-entity transactions is generally excluded.

#### **Warning:**

*This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.*

*This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.*

The meaning of ‘connected with an entity’ is defined in **proposed section 328-125**. The reader is referred to paragraphs 2.41 to 2.55 on pages 25 and 29 of the [Explanatory Memorandum](#) for an explanation with examples of this expression.<sup>6</sup>

The meaning of ‘affiliate’ is defined in **proposed section 328-130**. The reader is referred to paragraphs 2.34 to 2.40 on pages 23 and 24 of the Explanatory Memorandum for an explanation with examples of when an entity is an affiliate of another entity.

Methods of satisfying the \$2 million aggregated turnover test

**Proposed section 328-110** sets out the three ways by which an entity may satisfy the \$2 million aggregated turnover test as indicated below:

- (a) if the entity’s aggregated turnover for the previous income year was less than \$2 million (**proposed subparagraph 328-110(1)(b)(i)**), or
- (b) if the entity’s aggregated turnover for the current income year is likely to be less than \$2 million, calculated as at the first day of the income year (**proposed subparagraph 328-110(1)(b) (ii)** and **proposed paragraph 328-110(2)(a)**), or
- (c) the entity’s actual aggregated turnover for the current income year was less than \$2 million as at the end of the income year (**proposed subsection 328-110(4)**).

Exception

**Proposed subsection 328-110(3)** provides that an entity is not an SBE for the current income year if it carried on business in each of the two previous income years and the aggregated turnover for each of those two previous years was \$2 million or more.

Meaning of aggregated turnover

General rule

**Proposed subsection 328-115(1)** states that the aggregated turnover for an income year is the sum of relevant annual turnovers described in **proposed subsection 328-115(2)** less the amounts covered under **proposed subsection 328-115(3)**.

Under **proposed subsection 328-115(2)** the relevant annual turnovers that need to be aggregated are:

- (a) the entity’s (the test entity’s) annual turnover for the income year, and
- (b) the annual turnover of a relevant entity that is an entity connected with the test entity, and
- (c) the annual turnover of a relevant entity that is an affiliate of the test entity.

**Warning:**

*This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.*

*This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.*

The aggregation of turnovers is required if the relationship of connected entity and affiliate existed with the test entity at any time during the income year under **proposed subsection 328-115(2)**.

It will be noted that a relevant entity for the purposes of **proposed section 328-115** could be either an entity that is connected with the test entity as defined in **proposed section 328-125** or an affiliate of the test entity as defined in **proposed section 328-130**.

#### Exclusions

**Proposed subsection 328-115(3)** excludes from aggregate annual turnover, the annual turnover attributable to transactions:

- (a) between the test entity and a relevant entity (**proposed paragraph 328-115(3)(a)**),
- (b) between a relevant entity and another relevant entity while each relevant entity is connected with the test entity or is an affiliate of the test entity (**proposed paragraph 328-115(3)(b)**), and
- (c) that took place by a relevant entity while the relevant entity is not connected with the test entity or is not an affiliate of the test entity (**proposed paragraph 328-115(3)(c)**).

#### Meaning of annual turnover

**Proposed subsection 328-120(1)** sets out the general rule for determining annual turnover. It provides that annual turnover for an income year is the total ordinary income that the entity derives in the income year in the ordinary course of carrying on a business.

The following exclusions are provided in **proposed section 328-120**.

- An entity is not required to include amounts relating to GST when working out the entity's annual turnover (**proposed subsection 328-120(2)**).
- An entity is not required to include amounts of ordinary income from the sales of retail fuel in working out annual turnover (**proposed subsection 328-120(3)**).

The annual turnover attributable from any dealings with associates of an entity, which are not at arm's length, must be accounted for on an arm's length basis under **proposed subsection 328-120(4)**. The meaning of associate will under subsection 995-1(1) of the ITAA 1997 is the meaning given by section 318 of the *Income Tax Assessment Act 1936* (ITAA 1936).

**Proposed subsection 328-120(6)** provides that regulations may provide for calculating an entity's annual turnover in a different way, but only if it would be less than worked out by section 328-120.

#### **Warning:**

*This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.*

*This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.*

The reader is referred to paragraphs 2.7 to 2.39 on pages 19 to 25 of the Explanatory Memorandum for a detailed explanation of calculating annual turnover and aggregated annual turnover.

#### Application

**Item 8 of Schedule 1** provides that the amendments made by this Schedule apply in relation to the 2007-08 income year and later income years.

### Schedule 2—Amendments relating to GST turnover thresholds

**Item 59 of Schedule 2** updates the Dictionary in subsection 995-1(1) of the *A New Tax System (Goods and Services Tax) Act 1999* (the GST Act) to define a small business entity (SBE) in terms of the meaning given in **proposed section 328-110** of the ITAA 1997.

The main provisions which ensure that a SBE continues to be eligible for the three GST concessions using the turnover calculations for the SBE test are set out below for each concession. **Proposed section 328-110** inserted by **item 1 of Schedule 1** sets out three ways of passing the SBE test. One of the ways is based on aggregated turnover worked out at the end of the current year by **proposed subsection 328-110(4)**. A note to **proposed subsection 328-110(4)** states that an entity which qualifies to be a SBE under this subsection is not entitled to the three GST concessions. The Explanatory Memorandum to the Bill indicates at paragraph 1.36 on page 14 (with an example on page 15) that as these concessions are applicable during the course of the income year, it would not be possible to make them available to an entity whose status as a SBE is not determined until after the end of that income year.

Hence, the main provision relating to each of these GST concessions excludes the concession to an entity which is a SBE because of **proposed subsection 328-110(4)**.

#### Cash accounting turnover threshold

Paragraph 29-40(3)(a) of the GST Act provides that the cash accounting threshold is \$1 million. The amendment proposed by **item 12 of Schedule 2** is to change the cash accounting threshold to \$2 million. **Item 9 of Schedule 2** repeals paragraph 29-40(1)(a) and substitutes **proposed paragraph 29-40(1)(a)** to enable a SBE to choose the cash accounting basis. However, an entity which is a SBE because of **proposed subsection 328-110(4)** is excluded from making this election.

#### **Warning:**

*This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.*

*This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.*

## Annual apportionment of input tax credits

**Items 22 and 23 of Schedule 2** amend paragraphs 131-5(1)(a) and paragraph 131-20(1)(c) so that a SBE is eligible for the annual apportionment of input tax credits for acquisitions and importations that are partly creditable. Here again, an entity which is a SBE because of **proposed subsection 328-110(4)** is excluded from making this election.

## Eligibility to pay GST by instalments

Section 162-5 of the GST Act provides the conditions for eligibility to elect to pay GST by instalments. **Item 30 of Schedule 2** substitutes a **new paragraph 162-5(1)(a)** to enable an entity which is a SBE for the income year in which the election is made, to elect to pay GST in instalments. An entity which is a SBE because of **proposed subsection 328-110(4)** is excluded from making this election.

## Application

**Item 67(1) of Schedule 2** provides that the amendments referred to above apply to net amounts for tax periods starting on or after 1 July 2007.

**Item 68, 69 and 70 of Schedule 2** provide transitional arrangements relating to choice to account on a cash basis, election to have an annual apportionment and election to pay GST by instalments, respectively.

## Schedule 3—STS taxpayers

**Schedule 3** amends Division 328 of the ITAA 1997 by changing its title from **STS taxpayers** to **small business entities** and inserting a new guide to Division 328. This guide gives a list of the 12 tax concessions available to an SBE, subject to the existing specific conditions that apply to each of those concessions. Under the small business framework the substance of the existing tax concessions under the STS system will be retained.

In paragraphs 4.34 and 4.35 on pages 46 and 47 the [Explanatory Memorandum](#) outlines the existing concessions:

4.34 The former STS concessions available to small business entities under the new framework are:

- the simplified depreciation regime that allows for depreciating assets costing less than \$1,000 each to be written off immediately. Most other depreciating assets are pooled and enjoy an accelerated rate of depreciation;

### **Warning:**

*This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.*

*This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.*

- the simplified trading stock regime that allows taxpayers not to account for changes in the value of trading stock or do stocktakes at the end of the income year; and
- an immediate full deduction for certain pre-paid expenses, despite the prepayment rules that potentially apply where a taxpayer incurs expenditure for something to be done (in whole or in part) in a later income year. Where these rules apply, the deduction for the expenditure is spread over the period covered by those services, up to a maximum of 10 years.

4.35 As was the case with the STS, small business entities will generally have a two-year amendment period (instead of four years that applies to taxpayers with more complex tax affairs) during which the Commissioner can review and amend the entity's income tax assessment.

Paragraphs 4.31 and 4.32 of the [Explanatory Memorandum](#) on page 46 indicate that amendments are required to retain the existing STS tax concessions for SBEs and to give them flexibility to choose the concessions that suit them best tax :

4.31 The substance of the concessions currently available to STS taxpayers remains unchanged under the new small business framework.

4.32 However, minor amendments are required to:

- allow small business entities to access the former STS concessions;
- abolish the STS as a system, and relabel the STS concessions to make the terminology consistent with the new small business framework; and
- provide that small business entities can choose to use only those concessions that suit their business needs.

The items in **Schedule 3** that bring about these changes are stated in paragraph 4.32 to be **items 1 to 78, 81 to 84, 87 to 96, 110 to 120, 149 to 159 and 162**. These include amendments to Division 328 of the ITAA 1997 and the *Income Tax (Transitional Provisions) Act 1997*.

Application

**Item 176 of Schedule** provides that the amendments made by this Schedule apply in relation to the 2007-08 income year and later income years.

## Schedule 4 —Capital gains tax small business concessions

The CGT provisions are being amended to allow an entity which is an SBE or whose maximum net asset value is less than \$6 million to access the CGT concessions for small businesses.

**Warning:**

*This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.*

*This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.*

Division 152 of the ITAA 1997 provides CGT concessions for small business. These are:

- the 15 year exemption in Subdivision 152-B,
- the 50% reduction in Subdivision 152-C,
- the retirement concession in Subdivision 152-D, and
- the roll-over in Subdivision 152-E.

Section 152-5 sets out 3 major basic conditions for a small business to obtain relief under Division 152. **Item 2 of Schedule 4** repeals existing paragraph 152-5(a) which states one of these basic conditions and substitutes **new paragraph 152-5(a)** to provide that for Division 152 to apply:

- the entity must be a SBE, or
- a partner in a partnership that is a SBE, or
- the net value of the assets that the entity and related entities own must not exceed \$6 million.

Related amendments are in **item 3 of Schedule 4**.

The proposed amendments indicate that if an entity does not satisfy the small business test it can still access the small business CGT concessions if it satisfies the maximum net asset value test which has been increased from \$5 million to \$6 million (**items 2,4, 22, 23 and 25 of Schedule 4**).

The increase in the maximum net asset value threshold from \$5 million to \$6 million was announced in the 2006-07 Budget,

#### Application

The amendments referred to above apply to CGT events happening in the 2007-08 income year and later years of income under **item 31(1) of Schedule 4**.

### Schedule 5—Fringe benefits tax: car parking exemption

Section 58GA of the FBTA 1986 provides for the exemption of small business car parking benefits. Existing paragraph 58GA(d) provides that this is an exempt benefit if the employer's ordinary income and statutory income for the year of income ending most recently before the start of the FBT year is less than \$10 million.

**Item 1 of Schedule 5** repeals existing paragraph 58GA(1)(d) and inserts **new paragraph 58GA(1)(d)** to allow an employer who is a SBE for the year of income ending most recently before the start of the FBT year to also be entitled to this exemption under

#### **Warning:**

*This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.*

*This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.*

**proposed subparagraph 58GA(1)(d)(ii).** The current exemption to employers whose total ordinary and statutory income is less than \$10 million will continue under **proposed subparagraph 58GA(1)(d)(i).**

Application

**Item 6 of Schedule 5** provides that the amendments made by this Schedule apply in relation to the FBT year starting on 1 April 2007 and later FBT years.

## Schedule 6—PAYG instalments

Section 45-130 of Schedule 1 of the *Taxation Administration Act 1953* (TAA 1953) sets out the conditions to be met by a PAYG full self-assessment taxpayer, to be a quarterly payer on the basis of GDP adjusted notional tax.

Subparagraph 45-130(1)(b)(ii) requires that the base assessment instalment income for the base year is \$1 million or less. **Item 2 of Schedule 6** amends subparagraph 45-130(1)(b)(ii) to change \$1million to \$2 million.

**Items 4 to 8 and item 9(2) of Schedule 6** will enable full self-assessment taxpayers who are SBEs to access the PAYG quarterly payers on the basis of GDP-adjusted notional tax from the 2009-10 income year and later years.

Application

Under **item 9(1) of Schedule 6**, the amendment made by **item 2** enables full self-assessment taxpayers to access instalments based on GDP-adjusted notional tax from the 2007-08 income year where the base assessment instalment income is less than \$2 million.

The application of **item 9(2)** to SBEs to from the 2009-10 and later years has been referred to above.

## Schedule 7—Roll-over relief

Subdivision 328-D of the ITAA 1997 currently sets out the capital allowances available to STS taxpayers and section 328-243 deals with roll-over relief. Under the amendments proposed in this Bill these will now be applicable to SBEs.

On 9 May 2006, in connection with the 2006 Budget, the Treasury in Press [Release No. 039](#) announced that depreciating asset roll over relief will also be extended to STS taxpayers to ensure businesses can be restructured without triggering a taxing point.

### **Warning:**

*This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.*

*This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.*

**Schedule 7** amends Subdivision 328-D of the ITAA 1997 to extend roll-over relief available under the uniform capital allowances system in Division 40 of the ITAA 1997 to small business entities who choose to deduct amounts for depreciating assets under Subdivision 328-D.

**Item 1 of Schedule 7** inserts **proposed subsection 328-243(1A)** to Subdivision 328-D to extend the optional asset roll-over relief in respect of depreciating assets under subsection 40-340(1) to SBEs. The [Explanatory Memorandum](#) summarises the situations where the roll-over is available in paragraph 3.12 on page 37 as follows.

... where

- a sole trader, trustee or a partnership that chooses to use the capital allowances for small business entities disposes of all assets in a small business pool to a wholly-owned company, or
- a small business entity that chooses to use the capital allowances for small business entities disposes of all assets in the small business to another taxpayer as a result of a marriage breakdown.

Application

**Item 2 of Schedule 7** provides that the amendment made by this Schedule applies in relation to the income year after the income year in which this Act receives the Royal Assent and later years.

## Schedule 8—Miscellaneous amendments

The miscellaneous amendments made by **Schedule 8** are consequential to the insertion of the expression ‘small business entity’ into the ITAA 1997. The [Explanatory Memorandum](#) in paragraph 4.74 on page 54 offers the following explanation of the amendments proposed by **items 1 to 8**:

4.74 There is a definition of ‘small business taxpayer’ (and associated definitions) in the ITAA 1997 which only applies to some transitional rules. These definitions have been removed to avoid confusion with the new definition of ‘small business entity’. To the extent necessary the definitions are retained in the Income Tax (Transitional Provisions) Act 1997.

Application

**Item 9 of Schedule 8** provides that the amendments made by this Schedule apply in relation to the 2007-08 income year and later income years.

### **Warning:**

*This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.*

*This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.*

## Concluding comments

This Bill introduces the New Small Business Framework in Division 328 of the ITAA 1997. **Proposed section 328-10** indicates that if an entity is a SBE for any income year it can choose to take advantage of the concessions in the table in the proposed section which is set out below:

**Warning:**

*This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.*

*This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.*

Item	Concession	Provision
1	CGT 15-year asset exemption	Subdivision 152-B of this Act
2	CGT 50% active asset reduction	Subdivision 152-C of this Act
3	CGT retirement exemption	Subdivision 152-D of this Act
4	CGT roll-over	Subdivision 152-E of this Act
5	Simpler depreciation rules	Subdivision 328-D of this Act
6	Simplified trading stock rules	Subdivision 328-E of this Act
7	Deducting certain prepaid business expenses immediately	Sections 82KZM and 82KZMD of the <i>Income Tax Assessment Act 1936</i>
8	Accounting for GST on a cash basis	Section 29-40 of the GST Act
9	Annual apportionment of input tax credits for acquisitions and importations that are partly creditable	Section 131-5 of the GST Act
10	Paying GST by quarterly instalments	Section 162-5 of the GST Act
11	FBT car parking exemption	Section 58GA of the <i>Fringe Benefits Tax Assessment Act 1986</i>
12	PAYG instalments based on GDP-adjusted notional tax	Section 45-130 of Schedule 1 to the <i>Taxation Administration Act 1953</i>

However, the availability of each concession is subject to any additional specific conditions attaching to each concession being satisfied. This implements the commitment of the Treasurer and the Minister for Small Business and Tourism in the [Joint Press Release](#) that announced the small business framework:

**Warning:**

*This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.*

*This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.*

Small businesses meeting the \$2 million annual turnover test will not need to make any further decisions to enter into the new arrangements, nor will they be obliged to adopt any concessions not suited to their requirements. Any business meeting the new small business definition will be able to choose those concessions that meet its business needs.<sup>7</sup>

This is an improvement on the STS system where an entity electing to enter it was locked into the three concessions without the option to decide on accepting individual concessions.

The concessions to small business in this Bill have been granted at a cost to revenue of \$295 million over 4 years.

<i>2006-07</i>	<i>2007-08</i>	<i>2008-09</i>	<i>2009-10</i>
nil	-\$7m	-\$137m	-\$151m

Source: Explanatory Memorandum to the Bill, page 3.

The [Banks Taskforce report](#) at pages 111 and 112 sets out four principles for developing future tax changes. Principle No. 3 is that measures to protect the revenue base must balance the revenue risk against the cost of compliance. The measures in the Bill will no doubt help reduce red tape and compliance costs to small businesses and is in keeping with Principle No. 3. The measures in this Bill also comply with Recommendation 5.43 on page 122 of the Banks Task Force Report that the Australian Government should take steps to align and/or rationalise different definitions in tax law including ‘small businesses’.

## Endnotes

---

1. The Hon John Howard, MP, the Prime Minister and the Hon Peter Costello, MP, the Treasurer, [Taskforce on reducing the regulatory burden on business](#), Joint Press Release, Parliament House, Canberra, 12 October 2005.
2. Regulation Taskforce 2006, [Rethinking Regulation: Report of the Taskforce on Reducing Regulatory Burdens on Business](#), Report to the Prime Minister and the Treasurer, Canberra, January 2006.
3. Australian Government, [Rethinking Regulation: Report of the Taskforce on Reducing Regulatory Burdens on Business](#), [Australian Government’s Response, \(final response\)](#), 15 August 2006.
4. Budget Measures 2006-07, [Budget Paper No. 2](#), pp. 30 and 31.

**Warning:**

*This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.*

*This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.*

5. The Hon Peter Costello, MP, Treasurer and the Hon Fran Bailey, MP, the Minister for Small Business and Tourism, [\*Making Tax Compliance Easier for Small Business – The New Small Business Framework\*](#), Joint Press Release, Melbourne, 13 November 2006.
6. The author has drawn extensively from the [\*Explanatory Memorandum\*](#) to the Tax Laws Amendment (Small Business) Bill 2007 in the production of this Bills Digest.
7. Costello and Bailey, op cit.

**Warning:**

*This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.*

*This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.*

---

© Copyright Commonwealth of Australia 2007

Except to the extent of the uses permitted under the *Copyright Act 1968*, no part of this publication may be reproduced or transmitted in any form or by any means including information storage and retrieval systems, without the prior written consent of the Department of Parliamentary Services, other than by senators and members of the Australian Parliament in the course of their official duties.

This brief has been prepared to support the work of the Australian Parliament using information available at the time of production. The views expressed do not reflect an official position of the Parliamentary Library, nor do they constitute professional legal opinion.

---

Members, Senators and Parliamentary staff can obtain further information from the Parliamentary Library on (02) 6277 2469.

**Warning:**

*This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.*

*This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.*