



International Tax Agreements Amendment Bill (No. 2) 2007

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Law and Bills Digest Section

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International Tax Agreements Amendment Bill (No. 2) 2007

Date introduced: 21 June 2007

House: House of Representatives

Portfolio: Treasury

Commencement: On Royal Assent. The agreement enters into force on specified dates – see Main Provisions.

Links: The [relevant links](#) to the Bill, Explanatory Memorandum and second reading speech can be accessed via BillsNet, which is at <http://www.aph.gov.au/bills/>. When Bills have been passed they can be found at ComLaw, which is at <http://www.comlaw.gov.au/>.

Purpose

To incorporate into Australian law the renegotiated double tax treaty between Australia and Finland relating to the avoidance of double taxation with respect to taxes on income and prevention of fiscal evasion.

Background

The following summary of international tax agreements has been extracted from Bills Digest No. 148, 2006-07:¹

Australia has bilateral agreements with a number of countries, known as Double Tax Agreements, aimed to prevent the double taxation of income where income is received by a resident of one country from activities in the other country. The agreement also aims to help minimise tax avoidance and evasion. The agreements deal with income from a number of specific sources, such as business income, dividends, interest and royalties. The agreements provide for the taxation treatment which is to apply, particularly which country may tax various categories of income and limitations of the amount that may be taxed. Subsection 4(2) of the *International Tax Agreements Act 1953* (the “ITA Act”) provides that agreements are, in most cases, to overrule provisions of the *Income Tax Assessment Act 1936* and the Act imposing Australian tax the *Income Tax Assessment Act 1997*, although a specific Australian law can overrule an agreement.

1 Spooner, Diane, International Tax Agreements Amendment Bill (No. 1) 2007.

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Agreements have a common format but differ to reflect the various tax rules applying in the countries with which Australia has an agreement.

Basis of policy commitment

At the G-20 meeting hosted in Melbourne in November 2006, Australia and Finland signed the new tax [treaty](#), *Agreement between the Government of Australia and the Government of Finland for the Avoidance of Double Taxation with respect to Taxes on Income and the Prevention of Fiscal Evasion*. The new treaty replaces the existing taxation treaty between Australia and Finland, which was signed in 1984 and amended by Protocol in 1997 ('the previous agreements').² The Treasurer, the Hon Peter Costello MP, subsequently announced the new treaty by [media release](#) on 20 November 2006.

The [National Interest Analysis](#) of the treaty, prepared by the Department of Foreign Affairs and Trade, outlines the basis of Australia's policy commitment:

The entry into force of Australia's 2001 United States (US) Protocol [\[2003\] ATS 14](#) and the 2003 United Kingdom (UK) Convention [\[2003\] ATS 22](#) triggered the Most Favoured Nation (MFN) obligation under the existing Australia-Finland Agreement, requiring Australia to enter into negotiations with Finland with a view to providing lower Withholding Taxation (WHT) rates for interest and royalty payments and to include rules that protect nationals and businesses from tax discrimination in the other country.³

The treaty was considered by the Joint Standing Committee on Treaties (JSCAT), which recommended that the Government take binding treaty action in its [report](#) on *Treaties Tabled on 6, 7 and 27 February 2007*.

The general purposes of the updated treaty are to:

- provide relief from double taxation on cross-border income (Article 22 of the Agreement)
- reduce current rates of withholding taxes on dividends, interest and royalties and bring into line the treatment of capital gains tax with OECD practice and its improved integrity measures⁴
- set out rules to prevent tax discrimination against nationals and Australian businesses operating in Finland, and vice versa (Article 23), and

2 *Media release*, The Hon Peter Costello MP, Treasurer, p. 1.

3 National Interest Analysis, para. 6.

4 *ibid*, para. 4.

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- improve integrity aspects of administering and collecting tax in either or both countries, include enhanced information exchange provisions which meet modern OECD standards.⁵

Financial implications

The Explanatory Statement states that Treasury has estimated the impact of the first round effects on forward estimates as negligible, and that no significant compliance costs will result from the entry into force of the Agreement.⁶

Main provisions

Schedule 1, items 1-7 amend the *International Tax Agreements Act 1953* to make a variety of consequential amendments to the 2006 Finnish agreement, which replaces the 1984 Finnish agreement and the 1984 Finnish agreement as amended by the 1997 Finnish protocol. The consequential amendments include:

- updated references to the 1984 Australia-Finland agreement(s); and
- including references to the 2006 Finnish agreement.

Item 8 repeals Schedules 25 and 25A of the Act, which currently contain the existing Finnish agreements, and substitutes a new **Schedule 25** which sets out the new 2006 Finnish agreement.

New section 11PA preserves the provisions of the previous agreements so far as those provisions continue to have the force of law for tax, in respect of income to which the previous agreements apply (this is a savings provision).

Although commencement of the Bill is on Royal Assent, the Agreement does not enter into force until 30 days after the date of the last notification that Parties' domestic requirements have been met (Article 28 of **Schedule 25**). Therefore, commencement of enforcement also requires appropriate action by the Finnish Government.⁷

5 *Media release*, p. 2.

6 *Explanatory Statement*, p. 5–6.

7 While the Finnish Government announced the signing of the Agreement by [press release](#) in late 2006, it is unclear at this stage whether the Agreement has been approved by the Parliament of Finland.

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