

## Chapter 5

### The remaining provisions – schedule 6 of the bill

5.1 Schedule 6 of the bill proposes amendments that will remove unlimited amendment periods.

#### Background

5.2 The Commissioner of Taxation's power to amend assessments is set out in section 170 of the *Income Tax Assessment Act 1936*. These provisions have been amended in recent years and now reflect that the standard period in which the Commissioner can amend an assessment for most individuals and small businesses is two years; for taxpayers with more complex tax affairs the period during which an amendment can be made is contained to four years.<sup>1</sup>

5.3 These provisions within the ITAA 1936 however do not apply to assessments involving fraud or evasion.<sup>2</sup>

#### The amendments

5.4 The amendments set out in Schedule 6 of the bill will amend the remaining provisions spread throughout the various taxation laws that specifically provide exceptions and give the Commissioner an unlimited period in which to amend an assessment. The affect of these changes being that the general amendment provisions of the ITAA 1936 will apply.<sup>3</sup>

5.5 These changes are designed to provide certainty by ensuring that whether or not a taxpayer has paid the correct amount of tax in a year, their assessment will become final. It is noted however, that the existing rule that provides the Commissioner with the authority to amend an assessment at any time in situations where taxpayers have deliberately sought to avoid their responsibilities by fraud or evasion will continue to apply.<sup>4</sup>

#### Views on the bill

5.6 Throughout the course of the inquiry, both in the submissions received and at the public hearings held, very little comment was made in respect of Schedule 6. In

---

1 CCH Australia, *Australian Master Tax Guide* 44<sup>th</sup> Edition, Australia, 2009, paragraph 25–300, p. 1343.

2 CCH Australia, *Australian Master Tax Guide* 44<sup>th</sup> Edition, Australia, 2009, paragraph 25–330, p. 1347.

3 Explanatory Memorandum, p. 66.

4 Explanatory Memorandum, paragraph 6.2, p. 65.

general, submitters are supportive of the proposed amendments<sup>5</sup> although it was suggested by one that:

...I hope there is some review going on overall into the impact of the certainty that is provided by the two-year and four-year time limits on amendments.<sup>6</sup>

***Committee view***

5.7 The committee is satisfied that the introduction of the amendments set out in Schedule 6 of the bill will not result in any unintended consequences but rather will improve outcomes for taxpayers by increasing certainty.

**Recommendation 8**

**5.8 The committee recommends that Schedule 6 of the bill be passed.**

**Senator Annette Hurley  
Chair**

---

5 Dominion Private Clients, *Submission 11*, p. 28.

6 Mr John Passant, Senior Lecturer, Faculty of Law, University of Canberra, 30 April 2010, p. 2.