Commonwealth revenue measures introduced include:

Amendment (2014 Measures No 4) Bill 2014, introduced into the House of Representatives on 17 July 2014, includes the following tax measures:

- Proposed amendments to the ‘thin capitalisation’ regime including:
  - reducing the safe harbour debt limit for general entities (non-ADI) from 3:1 to 1.5:1 on a debt-to-equity basis
  - reducing the safe harbour debt limit for financial entities (non-ADI) from 20:1 to 15:1 on a debt-to-equity basis
  - increasing the safe harbour capital limit for Authorised Deposit Taking Institutions (ADIs) from 4 per cent to 6 per cent of risk weighted Australian assets
  - reducing the world wide debt limit for outward investing entities (non-ADI) from 120 per cent to 100 per cent of the gearing of the entity’s worldwide group
  - introducing a new worldwide gearing debt limit for inward investing entities and inward investment vehicles that are also outward investing, and
  - increasing the ‘de minimis’ threshold from $250,000 to $2 million of debt deductions.

These changes are to apply with effect from income years commencing on or after 1 July 2014.

- Repeal of the foreign dividend exemption in section 23AJ of the Income Tax Assessment Act 1936 (ITAA 1936) and replacement with Subdivision 768-A of the Income Tax Assessment Act (ITAA 1997). Broadly, Subdivision 768-A fundamentally changes the basis of Australia’s outbound investment rules and will:
  - provide that the exemption for foreign non-portfolio dividends will be restricted to non-portfolio returns (including non-share dividends) on equity interests as defined in Division 974 of the ITAA 1997 rather than basing the exemption on voting rights as provided for under section 23AJ
  - allow entities to benefit from the non-portfolio exemption where they hold the distribution flows through intermediate entities such as trusts and partnerships, and
  - allow all corporate tax entities (including limited liability partnerships) who receive a distribution to be eligible for the exemption rather than restricting it to companies.

These amendments will apply to distributions and non-share dividends made after the day this Bill receives Royal Assent.

- Replacement of the current section 404 of the ITAA 1936 with a new section 404 which provides that section 389A of the ITAA 1936 is to be disregarded for the purpose of applying Subdivision 768-A of the ITAA 1997 when calculating the attributable income of a controlled foreign company (CFC). This ensures that the debt and
equity rules in Division 974 of the ITAA 1997 can be applied for purposes of applying the new Subdivision 768-A foreign distribution exemption to dividends received by a CFC.

These amendments will apply to distributions and non-share dividends made after the day this Bill receives Royal Assent.

- Amendments to the ITAA 1997 to introduce an integrity measure to ensure that the foreign residents' capital gains tax (CGT) regime (Division 855) operates as intended by disregarding the market value of an asset where it is double counted under the Principal Asset Test. The amendments to the Principal Asset Test are broader in scope than those announced by the previous government in the 2013-14 Federal Budget, since they are not restricted to entities that are members of the same consolidated group or multiple entry consolidated group (MEC group).

Broadly, where the assets of two or more entities are included in the Principal Asset Test, the market value of a new asset that does not constitute taxable Australian real property (TARP) and that relates to a corresponding liability elsewhere in the corporate group will be disregarded for the purposes of the Principal Asset Test.

The amendments will only apply to entities where certain ownership requirements are satisfied.

The amendments to the Principal Asset Test will apply to CGT events that occur after 7:30pm, 14 May 2013, where the entities involved are members of the same tax consolidated group or MEC group, or on or after 13 May 2014 for all other entities.

- Technical corrections to the ITAA 1997 to amend the meaning of a 'permanent establishment' for the purposes of the non-resident CGT reduction mechanism in Division 855, to ensure that for the purposes of working out whether a foreign resident has used a 'permanent establishment' in carrying on a business in Australia, the expression will have the meaning under any relevant tax treaty, or if no treaty exists, the default statutory definition.

The technical correction will apply from the commencement of Division 855 (12 December 2006).

- Amendments requiring the Commissioner of Taxation to issue personalised tax receipts to individuals for income tax assessed to them.

- Technical corrections to numerous provisions including, among other things, new special conditions for deductible gift recipients, amendments to the continuity of ownership test following the death of a beneficial owner of shares, and clarifying the operation of the tax consolidation rules for depreciating assets and deducting bad debts.

International Tax Agreements Amendment Bill 2014, introduced into the House of Representatives on 17 July 2014, proposes to give the force of law to the double tax agreement (DTA) with Switzerland. The main features of the updated DTA are:

- It provides a treaty tie-breaker provision for dual Australian-Swiss tax residents.

- It prescribes time periods for the purposes of deeming certain business activities to constitute a 'permanent establishment'.

- It provides withholding tax rate limits for dividends, interest and royalties as follows:
  - for dividends – 0 per cent for inter-corporate dividends on non-portfolio holdings of more than 80 per cent; 0 per cent for dividends beneficially owned by certain State, political subdivision or local authorities, complying Australian superannuation funds and tax exempt Swiss pension schemes, subject to certain conditions; 5 per cent for inter-corporate dividends on other non-portfolio holdings; and for all other dividends, a 15 per cent limitation
  - for interest - a 0 per cent limitation on interest paid to financial institutions, government bodies, complying Australian superannuation funds and tax exempt Swiss pension schemes, subject to certain conditions; a 15 per cent limitation on interest paid to financial institutions, government bodies, complying Australian superannuation funds and tax exempt Swiss pension schemes, subject to certain conditions; a 15 per cent limitation
- for royalties - a 5 per cent source-country limitation.
- prevents tax discrimination.

Following entry into force (which cannot happen until Australia and Switzerland provide notification on the completion of the necessary domestic procedures), the Australia-Switzerland DTA will take effect as follows:
- Australian fringe benefits tax - on fringe benefits provided on or after 1 April following entry into force.
- Australian withholding tax - on income derived by residents of Switzerland on or after 1 January following entry into force.
- Other Australian tax - in respect of income years beginning on or after 1 July following entry into force.
- Swiss taxes withheld at source on amounts paid or credited - on or after 1 January following entry into force.
- Other Swiss taxes - on or after 1 January following entry into force.
- The exchange of information - on or after 1 January following entry into force.

**Tax and Superannuation Laws**

*Customs Amendment Bill 2014*, introduced into the House of Representatives on 17 July 2014, makes a number of technical amendments to the *Customs Act 1901*, including changes to Customs controls and reporting requirements in relation to ships and aircraft, improvements to the application processes for several permissions under the Act, and enhancements to the interaction between the new infringement notice scheme and the claims process concerning prohibited imports.

**Clean Energy Legislation (Carbon Tax Repeal) Bill 2014**, which was introduced into the House of Representatives on 14 July 2014 and which received Royal Assent on 17 July 2014, repeals the carbon tax in support of the Government’s election commitment. This is the main repeal Bill and forms part of a broader package of Bills (referred to as the ‘Carbon Tax Repeal Bills’), which collectively repeal the carbon tax so that:

- 2013-14 will be the last financial year in which the carbon tax will apply
- liable businesses and other entities must meet all carbon tax liabilities incurred up to 30 June 2014 under the carbon pricing mechanism, the fuel tax credit system, excise or excise equivalent customs duties, or synthetic greenhouse gas (SGG) levies
- liable businesses and other entities must pay their final carbon tax compliance obligations at the next payment time under the current legislated arrangements
- industry assistance provided under the Jobs & Competitiveness Program (JCP) and the Energy Security Fund will continue in 2013-14 for the purpose of meeting carbon tax liabilities and will then cease
- the Australian Competition and Consumer Commission (ACCC) will have new powers to monitor prices and take action against businesses that attempt to exploit other
businesses and consumers by charging unreasonably high prices or making false or misleading claims about the effect of the carbon tax repeal on prices

- the Steel Transformation Plan Act 2011, which provided carbon tax related assistance to steel industry businesses, is repealed and the assistance will cease

- the funding for the Australian Renewable Energy Agency (ARENA) will be adjusted

Other Bills within the package seek to remove the equivalent carbon price imposed through the fuel tax credit system, through excise and excise equivalent customs duties, and through SGG levies.

Let’s talk

For a deeper discussion of how these issues might affect your business, please contact:

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