REVENUE GROUP — KEY PRIORITIES AND RISKS FOR 2011

Taxation receipts

The outlook for taxation receipts has softened since Budget 2010-11, with both the PEFO and the MYEFO revising down forecasts over the four years to 2013-14.

- Most recently, as at the MYEFO, taxation receipts of $292 billion (20.9 per cent of GDP) were expected in 2010-11 — a $2.1 billion downward revision since PEFO. Over the four years to 2013-14, receipts were revised down by $9.7 billion.
  - — Tax receipts are still projected to grow faster than the economy with the tax-to-GDP ratio expected to reach 22.8 per cent in 2013-14.

The dampening effect of the appreciation of the Australian dollar on receipts is the main driver for the downward revisions at MYEFO. Affected taxes include companies, capital gains, and resource rents. The MRRT alone was revised down by $3.1 billion over 2012-13 and 2013-14, almost exclusively due to the exchange rate.

- The $8.1 billion downward revision to companies receipts over the four years to 2013-14 also reflects a larger than previously anticipated effect of the carry forward of prior year losses.
  - — In addition, these effects are likely to fall more heavily on receipts in 2010-11 and 2011-12 than previously thought.

These downward revisions are partially offset by a stronger than expected outlook for wages flowing into greater individuals' income taxes, which were revised up by $3.4 billion over the four years to 2013-14 at MYEFO.

We have just initiated a forecasting round. Given recent tax collections and economic parameters, we expect a further softening in the outlook for taxation receipts.

[This section removed under s47E(d)]

The policy context and the tax forum

The Government provided its initial Stronger Fairer Simpler response to AFTS when it released the report in May 2010. There have been some further modifications (associated with the MRRT) and measures since then. The major measures in Stronger, Fairer, Simpler were:

- The Resource Super Profits Tax, now the Minerals Resource Rent Tax and the extended Petroleum Resource Rent Tax;
- a cut in the company tax rate to 29 per cent; and
- an increase in the Superannuation Guarantee to 12 per cent, to be phased in between 2013-14 and 2019-20.

Implementation of all the AFTS response measures is on track.

At the same time it released Stronger, Fairer, Simpler, the Government ruled out a number of AFTS recommendations (or interpretations of them), including:

- counting the family home in means tests (see Rec 88c);
- requiring parents to work when their youngest child turns 4 (see Rec 85)
- restricting eligibility to rent assistance for families (see Rec 103)
- reducing the CGT discount, apply a discount to negative gearing deductions, or change grandfathering arrangements for CGT (see Rec 14 & 17c); and
- removing the Medicare levy (see part of Rec 5).

[This section removed under s47E(d)]

[This section removed under s34. s47E(d)

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[This section removed under section 47C and section 47E(d)]

Legislative program

As usual, Revenue Group has a large legislative program on hand. There are about 60 measures that have been announced but for which legislation has not been introduced into Parliament (or tabled, in the case of regulations).

Parliament sits in the weeks beginning 7, 21 and 28 February and a number of these measures are scheduled for introduction the first two weeks of the sittings.

The biggest legislative projects are the mining tax measures (MRRT and PRRT), the alternative fuel tax measures and the managed investment trust changes.

Most tax measures are now subject to public consultation at the policy detail stage and on the draft legislation. [This section removed under s47E(d)]

Resource tax changes

On 2 July 2010, the Government announced a new Minerals Resource Rent Tax on Australian coal and iron ore projects, as well as the extension of the Petroleum Resource Rent Tax to all offshore and onshore oil and gas projects. The new arrangements are due to commence on 1 July 2012.

A Policy Transition Group (PTG) was established under the chairmanship of Minister Ferguson (Resources & Energy) and Don Argus (previously of BHP) to progress the detailed design based on the high level design negotiated between the Government and representatives of the three big miners and outlined in the Heads of Agreement. The PTG released its report in late December containing 94 recommendations and a further four suggestions regarding 'out of scope' matters.

In addition to the co-chairs the PTG included four industry members as well as David Parker (Treasury) and Chris Jordan (Board of Tax) and was supported by Treasury, DRET and ATO staff. The PTG consulted widely via both forums and workshops across the major capitals and via a formal issues paper and submission process. [This section removed under s47E(d)]

[This section removed under s47C, s47E(d)] [This section removed under s34]

[This section removed under s47C, s47E(d)]

The PTG also recommended that a Resource Tax Implementation Group be established to oversee the development of the draft legislation and provide advice on progressing key design issues still to be resolved. [This section removed under s47C, s47E(d)]

[This section removed under s34]

[This section removed under s47E(d)]

[pages 7 and 8 removed under s47E(d)]

Superannuation

The Government has made policy decisions on the taxation and regulatory reforms to superannuation it wishes to put in place over the next few years. The focus of attention is now on implementation.

Implement AFTS response. AFTS recommended changes to current taxation treatment of superannuation to improve the adequacy of retirement incomes and the equity of the distribution of tax concessions at the contribution phase. The Government decided not to proceed with those recommendations as they would have involved a substantial change from current arrangements. The Government announced a different package of reforms aimed at improving adequacy and equity, namely, through (a) an increase of the SG to 12, (b) an increase of the SG age limit from 70 to 75 from 1 July 2013, (c) a higher $50,000 annual cap for concessional contributions for those aged 50 or over with superannuation balances below $500,000, and (d) the introduction of a new low income earner Government contribution (maximum of $500) designed to refund contributions tax for those on incomes up to $37,000.

When the package of superannuation measures was announced, their funding was linked to revenues from the Mineral Resources Rent Tax. Consultation on the implementation details of the contributions cap and low income contribution measures are planned for the first half of 2011. Legislation for all measures is planned for introduction in Spring 2011 (coinciding with MRRT legislation).

Implement Cooper Review response. In December 2010, the Government announced its response to the Cooper review into the governance, operation and efficiency of the superannuation system. The Government committed to a new low cost default superannuation product called 'MySuper', measures to streamline the back-office administration of superannuation called 'SuperStream' and strengthening the governance, integrity and regulatory settings, including in relation to self managed superannuation funds. The SuperStream and SMSF issues are Revenue Group responsibilities working as part of a 'virtual team' with FSD in Markets Group.

These reforms will be introduced progressively over the next few years. Significant industry consultation will take place over the course of 2011 to settle the precise details of the reforms.

[This section removed under s47E(d)]

Personal tax reform

The Henry Review found that the personal income tax system should be the sole means of delivering progressivity in the tax system, supporting the direct distributional role of the transfer system. The tax system generally performs this role effectively.

[This section removed under s47E(d)]

Not-for-profit (NFP) issues

The NFP sector is a large and diverse sector providing valuable services to the community including, increasingly, government services.

Governance, regulation and taxation of NFP entities fall significantly short of public expectations and minimum standards. Regulation for the sector is ad hoc, overly complex and inconsistent, particularly when entities operate across jurisdictions. There is ad hoc public reporting by the sector and hence little real accountability to the community for what is achieved with their donations.

There are also growing revenue risks associated with the sector. Recent Court decisions have significantly widened the scope of activities in which NFP entities can engage and for which tax concessions can be applied. [This section removed under s47E(d)] These decisions have also provided NFP entities with a significant competitive advantage and created an opportunity for significant misuse of the tax concessions.

The Government committed to strengthening the NFP sector by undertaking a scoping study for a national regulator and by improving regulation for the sector. [This section removed under s47E(d)]

International tax priorities

Legislation

- Introduce legislation to codify the tax treatment of certain foreign sovereign investments. The proposed rules will be largely consistent with current practice with some modifications to align with optimal tax policy settings and reduce compliance and administrative costs.

- Introduce legislation that implements the remaining reforms to the foreign source income attribution rules that were announced in the 2009-10 Budget. The initial reforms that repealed the FIF and deemed present entitlement rules received Royal Assent on 16 July 2010.

- Implement the investment manager regime (IMR) which will reform the taxation of foreign managed funds. The Board of Taxation will continue to report on the design of an IMR as part of its review of the taxation of collective investment vehicles, due to report to Government by 31 December 2011. The Government has already announced details of an interim IMR regime and the design of this regime is currently being developed.

  [This section removed under s47E(d)]

Policy reviews

- Undertake consultation including the preparation of a discussion paper on the offshore banking unit (OBU) provisions. In response to recommendation 3.4 of the Johnson report the Government agreed to The Government will commence a consultation process, which will begin with the release of a discussion paper covering options dealing with the application process and coverage of the regime.

  [This section removed under s47E(d)]

[This section removed under s47E(d)]

Tax Treaties

[This section removed under s34]

- Priorities are to implement tax treaties recently signed with Chile and Turkey. Relevant legislation is scheduled for introduction into Parliament in Autumn 2011.
    - [This section removed under s33]
    - [This section removed under s33, s47E(d)]

[This section removed under s33, s47E(d)]

Other international activities

Australia contributes to the OECD sponsored Global Forum on Transparency and Exchange of information for Tax Purposes. Australia is the current chair of the Global Forum (Mike Rawstron GM ITTD) and the ATO participates as a member of the peer review group tasked with reviewing the implementation of member commitments to the international standards of transparency and exchange of information in tax matters. The Global Forum has launched 70 reviews of which 20 are completed (19 have been published to date)

[This section removed under s33]

GST issues

GST low value import threshold - reference to the Productivity Commission

In late 2010 there was considerable debate in the media regarding the impact of overseas online sales on Australian retailers and the $1000 threshold below which GST and customs duty is not payable on imported goods. In response, the Assistant Treasurer announced a Productivity Commission review of the Australian retail industry. The review is to commence in February 2011 and report in November 2011.

- [This section removed under s47E(d)].

The 2010 Tax Expenditures Statement (TES) released on 28 January 2011 estimates the GST tax expenditure on this item to be $460m in 2010-11 rising to $670m in 2014-15. This is the first time a quantified tax expenditure has been published for this item.

This issue involves a number of areas of the department in addition to Indirect Tax Division; Domestic Economy Division, Industry Policy Division, Infrastructure, Competition and Consumer Division and Tax Analysis Division.

GST base

Following the release of the latest TES, media attention has focussed on the GST base. There have been calls for the inclusion of GST in the forthcoming Tax Forum.

The GST is levied on around two thirds of total household consumption (similar to the OECD average). Supplies of education, health services and basic foods are largely untaxed (tax forgone is close to $12.1b, of a total of some $18b of quantified tax expenditures for 2010-11).

Other GST Issues

Implementation of the recommendations from the 2008 Board of Taxation review into the administration of GST: 16 of 41 recommendations have been legislated or legislation has been introduced. [This section removed under s47E(d)]

- Implementation of recommendations from Treasury's reviews of the GST margin scheme and GST financial supply provisions and Board of Taxation review of GST cross-border transactions.

- Monitor and respond to a number of GST court cases — they potentially have significant revenue implications and may require a legislative response.

Taxation of alternative fuels

There is a longstanding commitment from both sides of Parliament to introduce taxation on alternative fuels.

The Government released exposure draft legislation for consultation on 24 January 2011. Completion of consultation and passage of the legislation is time critical, with significant adverse impacts applying to the industry if new legislation is not in place by 1 July 2011.

The draft legislation provides for:

- taxation of alternative fuels based on energy content (consistent with the Henry Review);
- discounting the rate by 50 per cent in recognition of the potential environmental, fuel security and regional development benefits of the alternative fuels;
- a five-year, phased introduction of taxation on the alternative fuels, except for domestic ethanol where a transition period of 10 years applies.

The alternative fuels industry has argued generally against taxing alternative fuels before a well-developed, whole of government energy policy is in place.

- The LPG sector has begun a public campaign opposing fuel tax on LPG, arguing infant industry status for the sector (it has 6 per cent of the transport fuels market).

Tax administration issues

Tax System Advisory Board

The Government announced during the election the creation of a Tax System Advisory Board to provide advice to the Commissioner on internal ATO administrative issues (ie not the compliance program or interpretation issues.)

[This section removed under s47E(d)]

A consultation paper released at the end of January flagged a number of governance approaches to the establishment of the Board, from a minimalist advisory board appointed by the Commissioner to a more formal structure reporting to the Treasurer and with membership appointed by the Government. While some in the corporate sector favour a more independent Board [This section removed under s47E(d)]

A consultation panel has been appointed – Dick Warburton, Jillian Segal, Jenny Grainger from the ATO and, as announced, David Parker.

Board of Taxation appointments

Dick Warburton has stood down as the Chair of the Board. Chris Jordan, current Deputy Chair, has been appointed by the Treasurer as Acting Chair [This section removed under s47E(d)]

[Pages 18-39 removed under s34]