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TAX FORUM

4 - 5 OCTOBER 2011

Executive Summary

This submission is made on behalf of the Australian Finance Conference, Australian Equipment Lessors Association and Australian Fleet Lessors Association (membership lists attached), to assist the Government in determining priorities for tax reform in the context of the Tax Forum on 4-5 October 2011

We are pleased to note that a number of the important tax reform issues we have raised in recent years have now been acted upon by Government. Significantly, the GST hire purchase reforms announced in the 2010 Commonwealth Budget address a substantial GST anomaly that has existed since the commencement of GST in 2000, and these reforms will be implemented from 1 July next year.

At the State level, the abolition of stamp duties on equipment finance will take full effect also from 1 July 2012, the culmination of efforts commenced some two decades ago.

FBT statutory formula changes introduced in the 2011 Budget have addressed the uncertainty that previously existed in relation to these arrangements, allowing taxpayers to proceed in the knowledge that the changes have been put in place.

Our submission suggests some guiding principles for business tax reform, with particular regard to international tax relativity.

In the context of the AFTS Report's capital allowance recommendations we express our concern, on investment competitive grounds, if a reduction in Australia's company tax rate was made at the expense of capital allowances. Across many equipment categories, Australian depreciation rates are presently lower than in other countries; accordingly the option of reducing the tax rate by further lengthening effective lives should not be considered.

We support the recommendation of Australia's Future Tax System (AFTS) that capital allowances match economic depreciation.

Our submission identifies other AFTS recommendations we believe have significant merit, to assist Government in determining tax reform priorities.

Notwithstanding the Government rejection of the AFTS recommendation that luxury car tax should be abolished, we suggest there is a good case for abolition; a similar 'luxury' tax does not apply to any other goods and services, and even with its abolition 'luxury' cars would remain subject to limits on depreciation and input tax credits, tax imposts not borne by any other goods.

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SOME GUIDING PRINCIPLES FOR BUSINESS TAX REFORM

Historically Australian Governments have provided a range of capital allowances via the taxation system to encourage or discourage various equipment investments. We suggest the following principles to guide the further reform of business tax, focusing specifically on international tax relativity:

- the rate of Australian company tax should be at a rate which is in line with that of our major trading partners and competitors;
- the Australian depreciation regime should not be any longer than that of our major trading partners and competitors; and
- the level of investment incentives in Australia should be kept similar to and not less than those applicable in our major trading partners and competitors.

These principles of business tax relativity should be weighed in determining tax reform priorities, and also taking into account the changing mix of other socio-economic variables (e.g. inflation, interest rates, wage growth, 'regulatory burden'). To the extent that these get out of balance with those economies with which Australian business is expected to compete, investment incentive and capacity can be adversely affected, and the business taxation system should be ready to foster investment over consumption without disturbing the overall policy mix.

The recommendations of tax reform task forces and the responses of governments will inevitably occur at different times in the cycle of domestic economic and fiscal outcomes, with the consequence that the level of investment incentives determined at a point in time may be inappropriate in other conditions. This trend was evident in the 1999 Review of Business Taxation (RBT) recommendations on depreciation as well as in the Commissioner of Taxation's changes to effective life determinations for a range of assets, which resulted in a lengthening of safe-harbour effective lives and an associated reduction in annual depreciation allowances for those assets. In response, the Government has introduced statutory effective life caps (shorter than those re-assessed) for some asset classes and has increased the diminishing value depreciation rate to better reflect an asset's actual decline in value.

It is noteworthy however that such outcomes, especially their international relativity to major trading partners and competitors, can and do change.

THE CAPITAL ALLOWANCE REGIME

The AFTS noted that Australia's corporate tax rate of 30% is above the OECD average of 26.6%, whereas in 2001 when our rate went from 36% to 30% the OECD average was 32.5%; in this context it also noted that corporate tax rate reductions in other countries have been partly financed by less generous tax depreciation allowances.

While this may be so, as the 2001 drop in the Australian company tax rate was largely financed by lengthening equipment effective lives, for a range of plant types, Australian depreciation rates are presently lower. For example:

Diminishing Value Depreciation Rate					
	Australia (%)	Canada (%)	Japan (%)	UK (%)	US (%)
Cranes	10	30	21	20	40
Forklifts	18	30	62.5	20	40
Motor Cars	25	30	41.7	20	40
Trucks	13.3	40	50	20	40
Light Commercial Vehicles	16.6	30	62.5	20	40
Corporate Tax Rate	30	29.5	42	28	35

While international tax comparisons are always fraught, we would be concerned on investment competitiveness grounds, if a reduction in the Australian company tax rate was made at the expense of capital allowances.

The AFTS Report recommended that capital allowance arrangements should be enhanced and streamlined to ensure effective rates more closely match rates of economic depreciation, and to reduce administration and compliance costs overall. We fully support this recommendation.

PRIORITY AFTS RECOMMENDATIONS

Listed below are other AFTS recommendations we believe have significant merit, to assist Government in determining tax reform priorities.

- The company income tax rate should be reduced to 25 per cent over the short to medium term with the timing subject to economic and fiscal circumstances. Improved arrangements for charging for the use of non-renewable resources should be introduced at the same time (*Recommendation 27*).

- The capital allowance arrangements for small business should be streamlined and simplified, by:
 - a) allowing depreciating asset costing less than \$10,000 to be immediately written-off; and

 - b) allowing all other depreciating assets (except buildings) to be pooled together with the value of the pool depreciated at a single declining rate (*Recommendation 29*).

- The small business entity turnover threshold should be increased from \$2million to \$5million, and adjustments to the \$6million net asset value test should be considered (*Recommendation 30*).

- Companies should be allowed to carry back a revenue loss to offset it against the prior year's taxable income, with the amount of any refund limited to a company's franking account balance (*Recommendation 31*).

- Financial institutions operating in Australia should generally not be subject to interest withholding tax on interest paid to non-residents (*Recommendation 33*).

- The Government should consider making greater use of GST-free business-to-business transactions or reverse charging, provided the potential compliance cost savings outweigh the additional complexity costs and risks to revenue (*Recommendation 56*).

LUXURY CAR TAX IMPOSTS

The AFTS Report recommended that the luxury car tax should be abolished (recommendation 80). Although the Government rejected this recommendation, below we set out why we believe abolition should be reconsidered.

There are two luxury car tax thresholds, serving three taxation related purposes. The 'general' luxury car limit is \$57,466, and the 'fuel efficient' limit is \$75,375. The purposes served by the limits are:

- firstly, under section 40-230 of the *Income Tax Assessment Act 1997* the \$57,466 'general' limit is used to cap depreciation claimed for 'luxury cars' to that amount. This measure was introduced in 1979;
- secondly, the introduction of GST in 2000 was accompanied by the introduction of the luxury car tax (LCT), which imposes an additional tax on the value of a 'luxury' car above either the 'general' or the 'fuel efficient' limit;
- thirdly, where the purchase price of a car exceeds the 'general' luxury car tax threshold, section 69-10 of the GST Act limits the amount of input tax credits available to 1/11 of that threshold (i.e. \$5,224 of the current \$57,466 threshold).

We submit that:

1. The luxury car tax should be abolished; a similar tax does not apply to other 'luxury' goods and services. Furthermore, 'luxury' cars used for business purposes cannot be depreciated beyond the lower luxury car threshold, and input tax credit entitlements are limited to 1/11th of this threshold; no other goods and services are subject to these additional tax imposts, which would still represent a taxation 'surcharge' for luxury cars.

2. As the luxury car tax threshold would remain relevant for calculating these other tax imposts, it should be adjusted to realistically reflect movements in the price of 'luxury' cars. There should be one threshold of \$75,000, and adjusted annually in line with movements in the general CPI and not the motor vehicle purchase sub-group.

3. Vehicles such as hire cars, limousines and vehicles used by tour operators should be excluded from the depreciation and input tax credit limitations.

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AFC MEMBER COMPANIES

Advantagedge Financial Services	Nissan Financial Services
Advance Business Finance	Once Australia t/as My Buy
Alleasing	PACCAR Financial
American Express	Pepper Australia Pty Ltd
ANZ t/as Esanda	Provident Capital
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Bank of Queensland	RABO Equipment Finance
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FlexiGroup	Suncorp
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John Deere Credit	Wide Bay Australia
Kawasaki Finance	Yamaha Finance
Key Equipment Finance	
Komatsu Corporate Finance	<u>Professional Associate Members:</u>
Leasewise Australia	Allens Arthur Robinson
Liberty Financial	CHP Consulting
Lombard Finance	Clayton Utz
Macquarie Equipment Rentals	Dibbs Barker
Macquarie Leasing	EDX Australia
Max Recovery Australia	Henry Davis York
Members Equity Bank	
Mercedes-Benz Financial Services	

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Alleasing Group	Key Equipment Finance
Allens Arthur Robinson	Komatsu Corporate Finance
Alliance e-finance	KPMG
ANZ Asset Finance	Lanier (Australia)
Atlas Copco Customer Finance	Macpherson + Kelley Lawyers
Australasian Asset Residual Management	Macquarie Leasing
Australian Structured Finance	Mallesons Stephen Jaques
Baker & McKenzie	Medfin Australia
Bendigo Bank Leasing Division	Members Equity Bank
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BMW Australia	Mercer Australia
BOQ National Finance	Morris Finance
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De Lage Landen	SG Equipment Finance
Deloitte Touche Tohmatsu	Sharp Finance
DibbsBarker	Sofico Services Australia
Dominion Group	Solutions Asset Management
equigroup	Southern Finance Group
Experien	Spectra Financial Services
FlexiGroup	St. George Bank
Freehills	Suncorp
Fuji Xerox (Finance) Australia	SunGard Asia Pacific
GE Commercial Finance	The Leasing Centre (Australia)
Holman Webb Lawyers	Toyota Finance Australia
Henry Davis York	Traction Group
HP Financial Services	United Financial Services Capital
IBM Global Financing	Volvo Finance
Innovation Fleet	Westlawn Finance
Insyston	Westpac Institutional Banking
International Decision Systems	White Clarke Asia Pacific
John Deere Credit	Yamaha Motor Finance

September 2011



Australian Fleet Lessors Association

Incorporated - ABN 78 059 998 533

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NLC

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Summit Auto Lease Australia

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September 2011