

ATO MINUTE

572/2011

31 OCTOBER 2011

FORMAT

MINUTE NO.

ISSUE DATE

CLASSIFICATION



**Australian Government**  
**Australian Taxation Office**

## ATO MINUTE

FILE REF: [FILE NO.]

TO:	Business Tax Division
COPIES TO:	Business Tax Division, Treasury Chief Tax Counsel, Australian Taxation Office Senior Tax Counsel, Australian Taxation Office Senior Tax Counsel, Australian Taxation Office Senior Tax Counsel, Australian Taxation office Australian Taxation Office Governance and Government Relations, Australian Taxation Office Assistant Commissioner, Australian Taxation Office General Manager, Tax Design Division, Treasury <a href="mailto:@treasury.gov.au">@treasury.gov.au <a href="mailto:@ato.gov.au">@ato.gov.au</a></a>

TREASURY REF:

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OTHER REFS:			

CATEGORY:	<input checked="" type="checkbox"/> Suggested legislative amendments <ul style="list-style-type: none"> <li><input type="checkbox"/> Minor technical amendments to the law - not Tax Issues Entry System (TIES) issues</li> <li><input type="checkbox"/> Policy/Law change suggestion - substantive change in policy or law</li> </ul> <input checked="" type="checkbox"/> Pre Policy Approval <input checked="" type="checkbox"/> Legislative Measures Development <input checked="" type="checkbox"/> General - includes advice in relation to outcome of litigation/court cases and TIES issues
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ISSUE DATE:	31 October 2011	RESPONSE DATE:	NA
SUBJECT:	Consolidation : Proposed amendments to the rights to future income and residual tax cost setting rules : Pre 12 May 2010 period changes		

### Purpose

### Section 22

### Background

To date the ATO have received approximately 26 private rulings, 46 objections and 80 amendment requests relating to the consolidation rights to future income and residual rules, which are yet to be resolved.

The majority of claims made in these rulings and objections relate to the assets which would have reset tax cost allocated to goodwill under the current amendment proposals for the retrospective period.

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Potential claims for the 2003 to 2008 income years, as per objections and private rulings lodged to date, total approximately \$5.1 billion. There is nothing to stop taxpayers in these cases from lodging section 14ZYA and 359-50 notices in the hope of forcing a favourable AAT or court decision and income tax refunds which the Commissioner will be precluded from recovering when the retrospective amendments to the law are enacted.

The cost to the revenue of such claims under the current law will depend largely on the number of cases the tribunal or courts are capable of processing until the amendments to the law are enacted.

## Section 22

### **Advice/Issue**

## Section 22

### **Recommendation/Action**

## Section 22

Deputy Chief Tax Counsel