

Taxation Laws Amendment (2012 Measures No 6) Bill is making its way through Parliament, and is currently before the House of Representatives Standing Committee on Economics.

At Squire Sanders we thought you might like to be aware of these changes and how they might impact you and your business. As you will see from this article, the impact is cross sector and industry. If you have any questions do not hesitate to contact Louise Boyce on the number below.

This guide provides a high level over view of the potential impact to be considered.

Geothermal Energy Explorers

Immediate deductibility of exploration expenditure is to be extended to geothermal energy explorers. Geothermal energy explorers will be entitled to equivalent treatment for their exploration or prospecting expenditure incurred on or after 1 July 2012 as that afforded to mining and petroleum explorers. This includes an immediate tax deduction for the cost of depreciating assets first used for exploration or prospecting on or after 1 July 2012.

Native Title Benefits

Payments (for example by mining companies) of Native Title Benefits will not be assessable income to the recipient, and not subject to CGT. However, this does not apply to "interest" components, or payments for services (e.g. employment of indigenous persons as part of the arrangements). This may impact on structuring the compensation under land use agreements.

Salary Packaging Arrangements

The bill will remove the concessional fringe benefits tax treatment for in-house fringe benefits accessed by way of salary packaging arrangements. This impacts a large number of employers (e.g. electricity suppliers giving employees discounts on their power bills, booksellers giving discounts on their books, schools providing discounts to teachers' children).

Limited Recourse Debt

The definition of 'limited recourse debt' will be widened to include arrangements where, in substance or effect, the debtor is not fully at risk in relation to the debt. This particularly applies to "special purpose entities", but it can also potentially apply to a wider range of financial arrangements where assets have been financed using debt. A taxable gain can arise on refinancing of debt.

General Anti-avoidance Provisions

Legislation is expected to be introduced in the current parliamentary session to tighten up the general anti-avoidance rules. The changes will apply to transactions from 16 November 2012. The main change is in working out the "alternative postulate", tax is to be ignored (i.e. how would they have done the transaction if tax didn't exist). These changes can apply to any transaction after 16 November 2012.

Conclusion

This bill is currently being reviewed but we wanted you to be ahead of the changes by alerting you now. As we always say taxation issues have an impact on most business issues.

With our Australian office's new tax expertise and capabilities, contact Louise Boyce with any Australian tax queries you may have.

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The contents of this update are not intended to serve as legal advice related to individual situations or as legal opinions concerning such situations nor should they be considered a substitute for taking legal advice.

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