

THE BOARD OF TAXATION

2006-07 ANNUAL REPORT

DECEMBER 2007

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INTRODUCTION

The Board of Taxation is a non-statutory advisory body charged with contributing a business and broader community perspective to improving the design of taxation laws and their operation. The Treasurer has placed particular emphasis on the Board's role in monitoring the process of community consultation on tax matters.

The Board comprises ten members, seven of whom, including the Chairman, Mr Richard Warburton AO, have been appointed from the non-government sector. There are three ex officio members — the Secretary to the Australian Treasury, the Commissioner of Taxation and the First Parliamentary Counsel. Further details on the membership of the Board are at Appendix A. The Board is supported by a small secretariat located in the Treasury.

The operations of the Board are governed by its Charter, including the Mission and Functions shown below. The Charter is reproduced in full at Appendix B.

The Board's mission

Recognising the Government's responsibility for determining taxation policy and the statutory roles of the Commissioner of Taxation and the Inspector-General of Taxation, the Board's mission is to contribute a business and broader community perspective to improving the design of taxation laws and their operation.

The Board's functions

The Board provides advice to the Treasurer on:

- the quality and effectiveness of tax legislation and the processes for its development, including the processes of community consultation and other aspects of tax design;

Introduction

- **improvements to the general integrity and functioning of the taxation system;**
- **research and other studies commissioned by the Board on topics approved or referred by the Treasurer; and**
- **other taxation matters referred to the Board by the Treasurer.**

ACTIVITIES OF THE BOARD IN 2006-07

Overview

During 2006-07, the Board reported to the Government on:

- the review of international consultation processes with a view to identifying any improvements to the Australian tax consultation system. The report was submitted to the Government in February 2007.

The Board also made significant progress on four other projects:

- a scoping study of tax compliance costs facing the small business sector to identify the more important areas where compliance costs might be reduced;
- a review, in conjunction with Treasury, of the foreign source income anti-tax-deferral regimes, in particular to identify ways to reduce the complexity and compliance costs associated with these rules;
- a review of the taxation treatment of off-market share buybacks; and
- consultation on the scope to apply consistent self assessment principles across all federally administered taxes (including the goods and services tax).

In addition, the Board continued its monitoring of the processes of community consultation in the development of tax legislation, and continued its own consultations with stakeholders from the business sector, tax practitioner groups and the wider community on issues coming within the Board's Charter.

Meetings

The Board met as a whole on 10 occasions during 2006-07, as shown in Table 1. To engage better with stakeholders across the country the Board held one of its

meetings in Adelaide during 2006-07. This followed a successful meeting in Perth in 2005-06. While in Adelaide, Board members met a range of stakeholders in the tax professional and business community. The Board is looking to extend its outreach further in 2007-08, with one meeting to be held in a regional centre. Details of Board members' attendance at meetings are provided at Appendix C.

Table 1: Board of Taxation meetings, 2006-07

Date	Location
21 July 2006	Sydney
18 August 2006	Brisbane
8 September 2006	Melbourne
17 November 2006	Sydney
6 December 2006	Canberra
2 February 2007	Melbourne
9 March 2007	Sydney
13 April 2007	Adelaide
18 May 2007	Canberra
15 June 2007	Melbourne

In addition, the Board conducts its projects by appointing a Working Group of its members to oversee the process. A list of Working Groups for 2006-07 and their membership is provided at Appendix D. Each of these Working Groups met on numerous occasions during 2006-07 and engaged in extensive consultation in relation to the projects. These consultations are outlined in general terms in Appendix E.

Review of international consultation processes

In February 2007 the Board provided to the Government a report prepared in conjunction with Treasury, *Improving Australia's tax consultation arrangements*. The report followed a review of international consultation processes, commenced by the Board with Treasury in late 2005, which was aimed at identifying any improvements to the Australian system. The review followed

the Treasurer's agreement to Recommendation 7.1 in Treasury's final report on the *Review of Aspects of Income Tax Self Assessment*.¹

The Board and Treasury established a joint Working Party, chaired by Mr Keith James from the Board, to conduct the review. The Working Party met a wide range of stakeholders in the Australian system to understand better the current tax consultation processes and to gather information on whether international practice might be relevant to Australia. In particular, the Working Party met peak industry groups, tax expert groups, regulatory bodies, officials from Treasury and the Australian Taxation Office and state government treasury and revenue departments.

The Working Party also considered information on tax consultation practices from Canada, France, Germany, Ireland, Korea, the Netherlands, Norway, Sweden, the United Kingdom, New Zealand and the United States.

The review found that since the 2002 report² there have been significant improvements in Australia's tax consultation arrangements and that they are now consistent with international practice, generally functioning well and have community support. As a result, the recommendations outlined in the 2007 report are for evolutionary change to the tax consultation system, within the broad framework of the existing arrangements developed in response to the Board's 2002 report on *Government Consultation with the Community on the Development of Taxation Legislation*.

The Working Party sought to provide the Government with a set of recommendations on which there was already broad agreement, within and outside Government, in the tax consultation system. The Working Party worked very closely with all participants and substantial progress was made prior to the release of the report in gaining acceptance of the recommendations and, in some cases, in implementing responses to the recommendations.

The recommendations identify opportunities for all of the key stakeholders to improve the effectiveness and efficiency of the tax consultation arrangements and ultimately to improve tax system outcomes.

1 See Treasury's final report on the Review of Aspects of Income Tax Self Assessment, August 2004, which is available on the Treasury website, www.treasury.gov.au

2 Board of Taxation's report on Government Consultation with the Community on the Development of Taxation Legislation, March 2002, which is available on the Board of Taxation website, www.taxboard.gov.au

Implementation of the recommendations will lead to an environment where:

- **government, being responsible for policy decisions, clearly outlines its policy intent, and provides the opportunity and resources for early consultation wherever possible;**
- **officials use the opportunity to engage proactively with external sources of advice, provide open and timely feedback, and manage the consultation process efficiently;**
- **external stakeholders and experts commit to seek the most effective implementation options that are consistent with government policy intent, engage in consultation effectively and efficiently, maintain confidentiality where required, and clearly separate consultation from activities that may conflict, such as lobbying; and**
- **the Board of Taxation takes a more proactive approach, within its Charter, to seeking better outcomes from the consultation process through facilitation and monitoring of consultation.**

On 15 August 2007 the Treasurer announced that the Government had endorsed the recommendations made in the report on ways in which Government, officials, external stakeholders and the Board itself can work together to improve Australia's tax consultation system.

The Board's Report and its recommendations and the Government's response are available on the Board's website at www.taxboard.gov.au

Scoping study of tax compliance costs facing the small business sector

The Board continued its scoping study of small business tax compliance costs during 2006-07. The Treasurer asked the Board to undertake this project in late 2005 and the terms of reference for the study are contained in the 2005-06 annual report.

During the past year, the Board has continued to consult stakeholders to identify the issues affecting compliance costs for small businesses and the more important areas where compliance costs might be reduced.

In 2005-06, the Board commissioned the University of New South Wales' Australian School of Taxation (Atax) to identify and describe small business compliance costs in qualitative terms. Atax was asked to identify comprehensively and rank sources of small business compliance costs, with a particular focus on tax compliance costs, and prepare a report for the Board. This report was received in September 2006.

Using the results of the Atax consultancy, the Board commenced a broader consultation process during 2006-07. A number of focus group discussions were held to test the findings of the Atax report. These meetings involved participants from a range of small businesses, software developers and tax practitioners from across Australia. Further consultation on a draft of the report took place in June 2007 with members of the Tax Office's Small Business Advisory Group and the Commissioner's Small Business Consultative Group. In addition, the Board sought information and comments from the Treasury, the Tax Office and the Office of Small Business.

The Board expects to complete its report to the Treasurer in the second half of 2007.

Review of the taxation treatment of off-market share buybacks

On 10 October 2006 the Government announced that it had asked the Board of Taxation to undertake a review of the taxation treatment of off-market share buybacks.

In conducting the review, the Board is taking into account:

- the factors influencing the increasing trend towards the use of off-market share buybacks;
- the implications of the current taxation treatment of off-market share buybacks for different types of shareholders;
- the compliance cost impacts of off-market share buybacks;
- the administrative practices of the Australian Taxation Office relating to off-market share buybacks;

Activities of the Board

- the basis for splitting the proceeds of off-market share buybacks into a dividend component and a capital component;
- the application of the dividend streaming rules to off-market share buybacks;
- the capital gains tax implications of off-market share buybacks; and
- any other matters the Board considers to be appropriate.

During 2006-07 the Board has made substantial progress with this review. The Board conducted targeted consultation with selected stakeholders to assist with the development of a discussion paper which was released on 16 July 2007. The discussion paper provided some background to and the framework under which off-market share buybacks operate in Australia; outlined the tax treatment of off-market share buybacks for various types of shareholders; and examined various issues in relation to the terms of reference for the review.

The Board held consultation meetings for this review in Sydney on 26 July 2007 and in Melbourne on 31 July 2007. The purpose of these meetings was to enable interested stakeholders to clarify the review's terms of reference and its scope and to promote stakeholder discussion on the issues raised in the discussion paper and any other relevant issues.

Submissions for the review closed on 24 August 2007. After considering the views of all stakeholders the Board expects to provide its recommendations to Government in the first half of 2008.

Review of anti-tax-deferral regimes

On 10 October 2006 the Government announced that it had asked the Board of Taxation to undertake a review of the anti-tax-deferral regimes — the controlled foreign company, foreign investment fund, transferor trust and deemed present entitlement regimes.

On 25 May 2007, the Board of Taxation released a discussion paper on the review of anti-tax-deferral regimes following targeted consultation with selected stakeholders. The discussion paper:

- provided some background to and the framework under which the anti-tax-deferral regimes operate;
- explored possible options for reform including whether the current regimes can be collapsed into a single regime; and
- examined issues relating to each of the abovementioned review criteria.

To assist in the review process, the Board also conducted consultation forums in June 2007. Meetings were held on 18 June 2007 in Sydney and 20 June 2007 in Melbourne. The consultation forums were attended by representatives from taxation professional bodies, major law and accounting firms, various major corporations and business associations.

After considering the views of all stakeholders and conducting further targeted consultation the Board will prepare its report and provide its recommendations to Government by early in 2008.

Consultation on the application of consistent self assessment principles

On 27 March 2007 the Minister for Revenue and Assistant Treasurer announced that he had asked the Board of Taxation to consult publicly on the scope to apply consistent self assessment principles across all federally administered taxes (including the goods and services tax). This review arose out of Recommendation 7.2 of Treasury's final report on the *Review of Aspects of Income Tax Self Assessment*, which recommended that there should be a review of these matters.

In conducting the review, the Board has been asked to consider the views of relevant stakeholders on the merits of the following possible improvements to the taxation system:

- extending the framework for legally binding rulings that currently applies to income tax and numerous other taxes to the GST and other taxes for which the Commissioner of Taxation has administrative responsibility. The goal of a single regime for rulings is considered worth pursuing for the potential benefits for practitioners and taxpayers who interact with several aspects of the tax system;

Activities of the Board

- applying the principle that amendment periods should approach the minimum required for the Tax Office to identify incorrect assessments and take action to correct them. Recent changes to income tax legislation reduced amendment periods for individuals and small businesses to two years; and
- applying the Shortfall Interest Charge, rather than the General Interest Charge, to cases where there is a shortfall of tax (in taxes other than income tax).

In pursuing the reference in relation to rulings, the Board has been asked to consider:

- whether the nature of any indirect taxes (for example, the two party impact of transaction taxes such as the GST) might require the rulings regime for these taxes to differ from the new income tax rulings regime;
- the appropriate way to rule in relation to past transactions for indirect tax where tax has been passed on to final consumers; and
- whether the relationship between excise and customs duties raises any specific issues in the implementation of a rulings regime.

In pursuing the reference in relation to amendment periods, the Board has been asked to consider the implications of the potential for a lack of symmetry between taxpayers who are (a) parties to the one transaction in the GST system, or (b) pay customs duty.

The Board has appointed a Working Group of its members to oversee the Board's consultations comprising Mr Eric Mayne (Chairman), Mr Chris Jordan and Mr Curt Rendall. The Board expects to undertake public consultations in the latter part of 2007.

To facilitate consultation, the Board expects to release a discussion paper early in 2008 which will identify the key issues surrounding the possible application of the current income tax rulings, amendment periods and interest rate regimes to other federally administered taxes. Submissions will be sought from stakeholders on the questions raised in the discussion paper.

Standard business reporting

The Board has had an active role during 2006-07 in encouraging the development of the Standard Business Reporting (SBR) programme. The SBR programme is a long term initiative to cut red tape for business when reporting to government which was launched by the Treasurer on 30 August 2007. In addition to receiving regular briefings on progress with the development of the initiative and providing feedback and advice, two Board members, Mr Eric Mayne and Mr Curt Rendall, served on the SBR Board. The SBR Board, Chaired by the Secretary to the Treasury, was a management board that oversaw the higher level direction of the programme, including review of all SBR papers and the business case/implementation plan prior to submission to Cabinet.

Consultation

During 2006-07 the Board continued with its ongoing role in monitoring the processes of community consultation on the development of new tax legislation. To facilitate this oversight role, the Board receives a report from Treasury on consultation on announced tax measures three times a year. In addition, the Board's monitoring role included receiving detailed presentations from Treasury on specific consultations.

The Board undertakes a program of regular consultation with external stakeholders, including members of its Advisory Panel, on issues falling within its Charter. Formal consultation meetings held in 2006-07 are shown in Table 5 at Appendix E. Since the beginning of 2007 much of the Board's consultation has been focused on its reviews, rather than on more general issues associated with the integrity and functioning of the taxation system. Less formal consultation also occurs.

Advisory Panel

In July 2002, the Board established an Advisory Panel to assist it in the general performance of its role. The Panel currently comprises 25 taxation professionals who have agreed to assist the Board voluntarily with its work. Panel members are appointed on the basis of their individual capabilities and expertise, and not as representatives of particular interests.

Activities of the Board

The Panel provides an additional source of advice to that provided by the business, professional and other community representative organisations with which the Board has developed close working relationships. The Board met Advisory Panel members on a number of occasions during 2006-07 to discuss Board projects and general issues associated with the integrity and functioning of the tax system. A number of Advisory Panel members have also assisted the Board with the off-market share buybacks and anti-tax-deferral regime projects.

Membership of the Advisory Panel changes from time to time and is reviewed periodically by the Board. Following a review in late 2006, two members retired from the Panel and two new members were appointed. The Board wishes to record its appreciation for the contributions made by Panel members to the Board's work during 2006-07. Panel membership as at 30 June 2007 is set out at Appendix H.

The Board of Taxation website

The Board of Taxation's website www.taxboard.gov.au provides general information on the Board, including its membership, the Board's Charter, contact details, Board press releases and Board reports to the Government.

THE YEAR AHEAD

The Board will continue to pursue its objectives as set out in its Charter, including issues relating to the general integrity and functioning of the tax system. Specifically, the Board intends to focus on the areas outlined below, in addition to any other matters referred to it by the Treasurer.

Consultation

Under its Charter, the Board provides advice to the Treasurer on the processes of community consultation in the development of tax legislation. In 2002, the Board submitted a report to the Treasurer on *Government Consultation with the Community on the Development of Taxation Legislation*³. Following this report, the Treasurer announced the Government's in-principle position in relation to community consultation in the development of tax policy and legislation.

The Board was asked to undertake an ongoing role in monitoring the consultation process. To assist the Board in this role, Treasury provides a regular report on the consultation strategy for each substantive tax proposal and the progress of that consultation. Treasury's consultation reports are published on the Treasury website (www.treasury.gov.au).

The Board also regularly seeks the views of stakeholders in the business sector, the tax profession and the wider community on the quality and effectiveness of the consultation processes.

In the more recent report on consultation, *Improving Australia's tax consultation arrangements*, the Board recommended that it take a proactive approach to encouraging continuous improvement in the tax consultation system by liaising with stakeholders about possible improvements to consultation arrangements consistent with the Government's framework. As noted, the report made a number of other recommendations directed at all participants in

3 Available on the Board's website, www.taxboard.gov.au

The year ahead

the tax consultation system. During 2007-08, the Board will continue to work with these participants to facilitate the implementation of the recommendations in the report.

The Board will also continue to undertake its ongoing role in monitoring the consultation process in the development of tax legislation. In particular, the Board will be focusing on the quality as well as the extent of consultation on tax proposals.

In addition, the Board will maintain its own program of consultation with the business sector, tax practitioner groups and the wider community on issues falling within its Charter. Subject to the Board's work program for the year ahead, it will be looking to conduct more general consultations on the integrity and functioning of the tax system and to proactively identify and synthesise stakeholder concerns from those consultations.

Scoping study of tax compliance costs facing the small business sector

As noted, the Board is making progress with the scoping study of tax compliance costs facing the small business sector and expects to finalise the report in the second half of 2007.

Review of the taxation treatment of off-market share buybacks

The Board has made good progress with the review of the taxation treatment of off-market share buybacks. The Board expects to complete this review in the first half of 2008.

Review of anti-tax-deferral regimes

The Board has also made significant progress with the review of the anti-tax-deferral regimes. The Board expects to provide a report to the Government early in 2008. Given the time available, and the potential breadth of the issues associated with the review, the Board's report will, in some cases,

focus on high level design principles. For this reason the Board considers that there should be further consultations between the Board and key stakeholders to allow details of those higher level design principles to be further developed. This would ensure that stakeholders have maximum input into the design of any new regime. Subject to Government agreement, to maintain the momentum of the review, the Board is hopeful that this further consultation process will commence early in 2008.

Consultation on the application of consistent self assessment principles

The Board proposes to release a discussion paper early in 2008 which will identify the key issues surrounding the possible application of the current income tax rulings, amendment periods and interest charges regimes to other federally administered taxes. Submissions will then be sought from stakeholders on the questions raised in the discussion paper.

Standard business reporting

The Board will maintain an ongoing interest in the SBR programme in 2007-08 as it considers that significant reductions in compliance costs can be achieved through reducing the reporting burden of business to government.

Post-implementation reviews

The Board also intends to continue to pursue post-implementation reviews in areas approved by the Treasurer. The Board sees such reviews as an important way in which it can meet its Charter of improving the general integrity and functioning of the taxation system, particularly by focusing on areas where compliance cost savings may be possible.

Rationalisation of the two Income Tax Assessment Acts

As part of fulfilling its Charter, the Board has over the past four years been focusing on processes for rationalising the two Income Tax Assessment Acts.

As the first step in that process, in 2005-06 the Board undertook a project to identify and recommend the repeal of inoperative provisions in both Acts. As well as uncluttering and making the income tax law easier to use, this was seen as a way of more clearly identifying the scope of the task of integrating the operative provisions of the Acts.

In its report to the Government in October 2005, the Board identified an estimated 2,135 pages of inoperative provisions in the 1936 and 1997 Income Tax Assessment Acts (ITAA) and recommended that the Government repeal these provisions after appropriate checking and public consultation on the draft legislation.

In response to the Board's recommendations, the Government has repealed more than 4,100 pages from Australia's tax legislation. Building on the provisions originally identified as inoperative by the Board, the Government identified a further 500 pages of inoperative provisions in the income tax law and 1,500 pages of inoperative tax Acts (such as Sales Tax Acts).

The repeal of the inoperative provisions has been a significant step, but there are still two Income Tax Assessment Acts. The long term goal is to achieve a single Income Tax Assessment Act. This is likely to take some time. The Board is hopeful that it could be achieved in the next five years.

The process for achieving this rationalisation is a measured one, mindful of transition costs, with opportunities being taken where provisions of the ITAA 1936 are being amended so that they can be suitably integrated into the more modern ITAA 1997 legislation. A recent example of this was the introduction of the Simpler Superannuation legislation which involved the relevant provisions of the ITAA 1936 being redrafted and moved into the ITAA 1997.

The current review by the Board of the anti-tax-deferral regimes will provide another opportunity for 400 pages of the ITAA 1936 (around 25 per cent of the Act) to be considered and integrated into the ITAA 1997. As the size of the ITAA 1936 reduces overtime, it may be possible to consider the remaining provisions as a package, rather than waiting for reform opportunities to individual provisions.

To ensure that the momentum achieved from the first inoperatives stage is maintained, the Board will continue to monitor the ongoing process of

rationalising the Income Tax Assessment Acts. As part of that process Treasury will be reporting to the Board annually on the progress of the rationalisation process, with earlier reporting of significant milestones as appropriate.

The Board remains focussed on ensuring that over a realistic timeframe Australia is able to achieve a single Income Tax Assessment Act. This will be a significant step in improving the design and operation of the tax laws and will assist taxpayers and their advisers in meeting their obligations under the law.

APPENDIX A: MEMBERSHIP OF THE BOARD

The Board of Taxation comprises up to ten members appointed by the Treasurer. A maximum of seven members are appointed in their personal capacity from within the business and wider community. The Secretary to the Australian Treasury, the Commissioner of Taxation and the First Parliamentary Counsel are ex officio members.

Initial appointments took effect from 14 September 2000 and ran for two years. Currently, members may be appointed for a term of up to three years. During 2006-07, the Treasurer reappointed Mr Eric Mayne and Mr Curt Rendall for three-year terms ending on 14 January 2010. In addition, the Treasurer appointed Mr John Emerson to the Board for a two-year term that commenced on 15 January 2007.

The members of the Board during 2006-07 were:

Chairman — Richard F E (Dick) Warburton AO

Mr Warburton is currently Chairman of Tandou Ltd and Magellan Flagship Fund Ltd. His other directorships include Caltex Australia Ltd, Citibank Pty Ltd, and Note Printing Australia Ltd. He is also a Director on the Advisory Board of The Garvan Research Foundation. Mr Warburton is a former Board Member of the Reserve Bank of Australia, former Chairman of the NSW Olympic Business Roundtable, a past National President of the Australian Institute of Company Directors, a former Chairman of Caltex Australia Ltd and former Chairman and CEO of Du Pont Australia and New Zealand.

Mr Warburton has been Chairman of the Board since its inception in September 2000.

Deputy Chairman — Chris Jordan AO

Mr Jordan is Chairman of KPMG New South Wales and was previously Partner in Charge of the New South Wales Tax and Legal Division of KPMG. He is the former Chairman of the New Tax System Advisory Board and was

also the State Chairman of the New South Wales Division of the Taxation Institute of Australia. Mr Jordan is a member of the Sydney Children's Hospital Foundation Board and is also a member of the Board of the Bell Shakespeare Company. He has been appointed by the NSW Government to the Games Advisory Committee of the Sydney 2009 World Masters Games.

Mr Jordan has been a member of the Board since its inception in September 2000. He was appointed to the new position of Deputy Chairman in January 2005.

Michael D'Ascenzo

Mr D'Ascenzo was appointed Commissioner of Taxation on 1 January 2006.

After joining the Tax Office in 1977, Mr D'Ascenzo worked in the area of tax avoidance schemes before moving on to lead the recoupment tax area, then international operations. He then introduced the large case program, auditing Australia's top 100 companies.

Mr D'Ascenzo led the improvements to the self-assessment system in 1992, and worked to raise the standard of tax technical decisions as Chief Tax Counsel. From 1998 to 2006, Mr D'Ascenzo was Second Commissioner, focusing on the interpretation and implementation of tax laws, corporate planning, finance and governance.

Mr D'Ascenzo has been an ex officio member of the Board since January 2006.

John Emerson AM

Mr Emerson has been a partner in the law firm Freehills since 1976 and is widely recognised as a specialist in the tax and other laws applicable to charities. He heads the firm's charity law practice.

He is the Freehills Melbourne Office Pro Bono Partner and is a member of a number of legal and public sector committees active in the charity tax and pro bono areas.

Mr Emerson was appointed to the Board in January 2007.

Brett Heading

Mr Heading is a Partner and Chairman of McCullough Robertson Lawyers. He is a corporate lawyer advising on mergers and acquisitions, corporate governance and capital raising, particularly for emerging companies. He is also an experienced company director, and is presently Chairman of ChemGenex Pharmaceuticals Ltd, Ambri Ltd and the unlisted Peanut Company of Australia Ltd. He has diverse personal agribusiness interests (including cattle, vineyard, lucerne and olive operations) and his family owns the wine producer Clovelly Estate Pty Ltd. Mr Heading is also a member of the Takeovers Panel.

Mr Heading has been a member of the Board since its inception in September 2000.

Ken Henry AC

Dr Henry has been Secretary to the Australian Treasury since April 2001. Dr Henry's experience in taxation began when he joined Treasury as a member of the Treasury's Taxation Policy Division from 1984 to 1986. After fulfilling various positions both inside and outside Treasury, Dr Henry returned to the Treasury in January 1994 as head of the Taxation Policy Division. In August 1997 he was appointed Chairman of the Government's Taxation Task Force, responsible for providing advice to the Government on tax reform options. Dr Henry was then appointed to other executive roles before taking up his current position. Dr Henry was awarded a Companion of the Order of Australia General Division (AC) in the Australia Day Honours 2007.

Dr Henry has been an ex officio member of the Board since April 2001.

Keith James

Mr James is a partner at Hall & Wilcox Lawyers. He is a key figure in the tax advisory profession. His involvement has extended to Chairman of the Public Accountants Committee, Victorian President and National Councillor and Chairman of the Taxation Centre of Excellence for CPA Australia. Mr James was the accounting profession representative on the Commissioner of Taxation's Advisory Panel, the National Liaison Committee and the Advisory Committee on the Taxpayers Charter. He was joint Chairman of the working party on the national review of standards of the tax profession and a member of the steering committee of the Pappas Carter Report reviewing the Tax Office's large case audit program.

Appendix A: Membership of the Board

Mr James is an active public speaker within the industry and regularly has articles published in legal and accounting publications.

Mr James has been a member of the Board since March 2004.

Eric Mayne

Mr Mayne is the Chief Supervision Officer of ASX Markets Supervision at the Australian Securities Exchange (ASX). He also chairs the ASX Corporate Governance Council.

Mr Mayne is responsible for the ASX's supervision of the Futures and Equities markets, including company disclosure, market surveillance and participant activity and compliance with the ASX's Operating Rules.

Mr Mayne joined the ASX in May 2005 after 35 years' experience in government revenue regulation and law. During this time, he was a partner at the law firm Mallesons Stephen Jaques for nearly 16 years, and was the National Managing Partner for approximately five years. Mr Mayne has a Bachelor of Laws (Hons) and Graduate Diploma of Business (Accounting), and is a member of the Financial Reporting Council and the Corporations Committee of The Law Council of Australia.

Mr Mayne has been a member of the Board since January 2005.

Peter Quiggin — First Parliamentary Counsel

Mr Quiggin is the First Parliamentary Counsel of the Office of Parliamentary Counsel (OPC), which is responsible for drafting all principal legislation for the Australian Government, including all principal taxation legislation.

Mr Quiggin's seven year appointment as First Parliamentary Counsel started on 13 May 2004. He has been a drafter with OPC for about 18 years and has drafted legislation covering a wide range of topics including taxation, native title and immigration.

Prior to working at OPC, Mr Quiggin worked for a number of years with the Tax Office and the Administrative Appeals Tribunal.

Mr Quiggin has been ex officio member of the Board since January 2004.

Curt Rendall

Mr Rendall is the Senior Partner of Rendall Kelly Chartered Accountants.

Mr Rendall was previously a member of the Dawson Review, Chairman of the Federal Government's Small Business Consultative Committee and Deputy Chairman of the New Tax System Advisory Board. He has also been Chairman of the Institute of Chartered Accountants Small and Medium Enterprises Committee as well as a Member of the Small Business Development Corporation of New South Wales. His most recent Government appointment has been as an Associate Commissioner of the Productivity Commission undertaking an enquiry into the relationships between participants in the smash repair industry.

Mr Rendall has been a member of the Board since January 2005.

Jane Schwager (until January 2007)

Ms Schwager is Chief Executive of Nonprofit Australia. She was previously Chief Executive Officer of The Benevolent Society, a major social enterprise driving social innovation, responsible for the 'Sydney Leadership' program and a wide range of community and residential programs for those in need. Prior to that, she was the Director General of the NSW Ageing and Disability Department, and Executive Director of the NSW Social Policy Directorate where she was responsible for advising the NSW Government on its social policy agenda across government departments. She was a member of the 2000 Commonwealth Government Social Welfare Reference Group responsible for the groundbreaking review of the Australian welfare system. Ms Schwager serves on a number of boards in the non-profit sector including Nonprofit Australia, Social Ventures Australia, Indigenous Festivals of Australia and Sydney Foundation for Medical Research.

Ms Schwager was a member of the Board from October 2002 to January 2007.

Secretary to the Board of Taxation

Sue Vroombout

Ms Vroombout has held a number of senior positions in the Treasury and the Attorney-General's Department. Ms Vroombout first became involved in taxation matters when she joined the Taxation Policy Division of Treasury in 1987. Ms Vroombout has also worked in a number of other areas of public

Appendix A: Membership of the Board

policy, including business and financial markets regulation and administrative law. She has secretariat experience from her role as Secretary to the Ministerial Council for Corporations in the early 1990s.

Ms Vroombout was appointed Secretary to the Board in June 2006.

APPENDIX B: THE BOARD'S CHARTER

Mission

Recognising the Government's responsibility for determining taxation policy and the statutory roles of the Commissioner of Taxation and the Inspector-General of Taxation, the Board's mission is to contribute a business and broader community perspective to improving the design of taxation laws and their operation.

Membership

The Board of Taxation will consist of up to ten members.

Up to seven members of the Board will be appointed by the Treasurer, for a term of up to three years, on the basis of their personal capacity. It is expected that these members will be appointed from within the business and wider community having regard to their ability to contribute at the highest level to the development of the tax system. The Chairman will be appointed by the Treasurer from among these members of the Board. If the Treasurer decides to appoint a Deputy Chairman, he or she will also be appointed from among these members of the Board. Members may be re-appointed.

The Secretary of the Department of the Treasury, the Commissioner of Taxation and the First Parliamentary Counsel will also be members of the Board. Each may be represented by a delegate.

Function

The Board will provide advice to the Treasurer on:

- the quality and effectiveness of tax legislation and the processes for its development, including the processes of community consultation and other aspects of tax design;
- improvements to the general integrity and functioning of the taxation system;
- research and other studies commissioned by the Board on topics approved or referred by the Treasurer; and
- other taxation matters referred to the Board by the Treasurer.

Relationship to other boards and bodies

From time to time the Government or the Treasurer may establish other boards or bodies with set terms of reference to advise on particular aspects of the tax law. The Treasurer will advise the Board on a case-by-case basis of its responsibilities, if any, in respect of issues covered by other boards and bodies.

Report

The Chairman of the Board will report to the Treasurer, at least annually, on the operation of the Board during the year.

Secretariat

The Board will be supported by a secretariat provided by the Treasury, but may engage private sector consultants to assist it with its tasks.

Other

Members will meet regularly during the year as determined by the Board's work program and priorities.

Non-government members will receive daily sitting fees and allowances to cover travelling and other expenses, at rates in accordance with Remuneration Tribunal determinations for part-time public offices.

The Government will determine an annual budget allocation for the Board.

APPENDIX C: ATTENDANCE AT BOARD MEETINGS

Table 2: Attendance at Board meetings, 2006-07

Member	Number of meetings eligible to attend	Number of meetings attended
Mr Warburton (Chairman)	10	9
Mr Jordan (Deputy Chairman)	10	7
Mr D'Ascenzo ^(a)	10	9
Mr Emerson	5	5
Mr Heading	10	10
Dr Henry ^(a)	10	10
Mr James	10	9
Mr Mayne	10	10
Mr Quiggin ^(a)	10	9
Mr Rendall	10	9
Ms Schwager	5	5

(a) The Board's Charter allows for ex officio members of the Board to be represented by a delegate at Board meetings.

APPENDIX D: BOARD WORKING GROUPS

Table 3: Membership of Board Working Groups

International tax consultation processes	Small business tax compliance costs	Off-market share buybacks	Anti-tax-deferral regimes	Consistent self assessment
Mr James (Chairman)	Mr Warburton (Chairman)	Mr Heading (Chairman)	Mr Jordan (Chairman)	Mr Mayne (Chairman)
Mr Jordan	Mr D'Ascenzo	Mr Emerson	Mr James	Mr Jordan
Mr Mayne	Mr Mayne	Mr James	Mr Warburton	Mr Rendall
Mr Quiggin		Mr Mayne		
Ms Schwager		Mr Warburton		

APPENDIX E: CONSULTATION BY THE BOARD

Table 4: Speeches and presentations, 2006-07

Date	Presentation	Event	Member
19 July 2006	Address on the role of the Board of Taxation and how it is helping the tax system	Australian Institute of Company Directors	Richard F E Warburton
29 August 2006	Address on the role of the Board of Taxation and how it is helping the tax system	Large Business Tax Administration Symposium	Richard F E Warburton
10 November 2006	Address on the role of the Board of Taxation and how it is helping the tax system	Taxpayers Australia & Superannuation Australia National Conference	Richard F E Warburton

Table 5: Meetings with external organisations, 2006-07

Date	Attendees
18 August 2006 Board of Taxation Meeting, Brisbane	Board's Advisory Panel (Brisbane-based members)
2 February 2007 Board of Taxation Meeting, Melbourne	Melbourne and Brisbane-based members of the Board's Advisory Panel
9 March 2007 Board of Taxation Meeting, Sydney	Sydney and Brisbane-based members of the Board's Advisory Panel
13 April 2007 Board of Taxation Meeting, Adelaide	Members of the Adelaide business and tax advising community
February to June 2007 Board of Taxation Public Forums and targeted consultation meetings in Sydney, Melbourne and Canberra for the Review of the Anti-Tax-Deferral Regimes	<ul style="list-style-type: none"> • Taxation professional bodies • Major law and accounting firms • Various major corporations and business associations • Officials from: <ul style="list-style-type: none"> ◦ The Treasury ◦ Australian Taxation Office

Appendix E: Consultation by the Board

Date	Attendees
February to June 2007 Board of Taxation consultation meetings in Sydney, Melbourne and Canberra for Review of the Taxation Treatment of Off-market Share Buybacks	<ul style="list-style-type: none"> • Various individuals • Various major corporations and business and professional associations • Officials from: <ul style="list-style-type: none"> ◦ The Treasury ◦ Australian Taxation Office
July 2006 to June 2007 Board of Taxation consultation forums and meetings in Sydney, Melbourne and Canberra for the scoping study of small business tax compliance costs	<ul style="list-style-type: none"> • Various individuals • Various small business operators and accountants • Taxation professional bodies • Australian Taxation Office Small Business Advisory Group • Australian Taxation Commissioner's Small Business Consultative Group • Officials from: <ul style="list-style-type: none"> ◦ The Treasury ◦ Australian Taxation Office ◦ Office of Small Business

APPENDIX F: CONSULTANCIES

Consultants are engaged in accordance with Treasury's policies for the engagement of consultants and contractors. These policies, which are consistent with the Chief Executive Instructions and the Commonwealth Procurement Guidelines, are outlined in the Treasury Annual Report. During 2006-07, the Board engaged four consultancies for an amount over \$10,000, for a total value of \$160,000. Details of these consultancies are in Table 6. The actual expenditure for these consultancies, consultancies completed in 2006-07 and for payments made to service providers in 2006-07 was \$102,035 (GST exclusive).

Table 6: Consultancies over \$10,000 in 2006-07

Consultant	Project	Engaged Cost (\$) ¹	Procurement Method ²	Reason ³
Professor Richard Vann	To provide consultancy services to assist with the review of Australia's foreign source income anti-tax-deferral regimes and the review of the taxation treatment of off-market share buybacks.	25,000	Direct Engagement	(e)
Professor Lee Burns	To provide consultancy services to assist with the review of Australia's foreign source income anti-tax-deferral regimes.	45,000	Direct Engagement	(e)
Monash University (Associate Professor Stephen Barkoczy)	To provide research consultancy services to assist with the review of the taxation treatment of off-market share buybacks.	75,000	Direct Engagement	(e)
University of Melbourne, School of Enterprise (Associate Professor Christine Brown)	To provide research consultancy services to assist with the review of the taxation treatment of off-market share buybacks.	15,000	Direct Engagement	(e)
Total consultancies over \$10,000		160,000		

Note — All amounts are GST inclusive.

(1) Cost of completed consultancies in 2006-07.

Appendix F: Consultancies

- i Monash University (Associate Professor Stephen Barkoczy – Actual cost was \$22,000.
 - ii University of Melbourne, School of Enterprise (associate Professor Christine Brown) – Actual cost was \$15,000.
- (2) Explanation of selection process terms:
- i Direct engagement includes the engagement of: a consultant selected from a pre-qualified panel arrangement; a recognised and pre-eminent expert; a consultant who had previously undertaken closely related work for the department; or a consultant known to have the requisite skills where the value of the project did not justify the expense or delay associated with seeking tenders.
 - ii Select tenders are invited from a short list of competent suppliers. This category is applied where there is a known limited market for the services required, and when value for money would not be achieved through a full open tender process.
 - iii Open tender.
- (3) Justification of decision to use consultancy:
- (a) Need for rapid access to latest technology and expertise in its application.
 - (b) Specialist in-house resources unavailable in time allowed.
 - (c) Need for an independent study or review.
 - (d) Need for a change agent or facilitator.
 - (e) Specialist skills or knowledge not available in-house.

APPENDIX G: FINANCIAL STATEMENTS

Table 7: Revenue, expenses and operating result

	2005-06	2006-07
	\$	\$
Revenue		
Funding from Government	2,000,000	2,000,000
Services provided free of charge	73,636	70,747
Revenue — Other	30	48
Total revenue	2,073,666	2,070,795
Expenses		
Employee expenses ^(a)		
Wages	265,368	291,657
Superannuation	100,811	92,514
Other employee expenses	135,792	160,380
Total employee expenses	502,151	544,551
Other expenses		
Travel	128,415	133,338
Communications	31	382
Conferences and training	17,823	22,586
Consultants and contracts	168,648	102,035
Contractors and seconded employees	73,636	70,747
Office supplies	806	695
Printing		5,150
Publications and subscriptions	1,831	1,507
Other supplier expenses ^(b)	101,040	102,618
Total operating expenses	492,230	439,058
Total expenses	994,381	983,609
Operating surplus	1,079,286	1,087,186

(a) The 2006-07 average staffing level of the Board secretariat was 3.5, compared with 2.8 in 2005-06. Of total employee expenses of \$544,551 in 2006-07, \$457,058 was attributed to the Secretariat. The balance of \$87,492 comprises payments to non-Government members of the Board (the total figure of \$83,592 shown in Table 7 'Fees paid to non-Government Board members, 2006-07' plus \$3,900 in superannuation payments in respect of non-Government members who receive daily fees rather than having them paid to their employing organisations).

(b) Other supplier expenses mainly consist of a payment made to Treasury for corporate support of the Board and the Secretariat. In 2006-07 this payment was \$100,000.

Table 8: Fees paid to non-government Board members, 2006-07^(a)

Member	\$
Mr Warburton (Chairman)	23,925
Mr Emerson	4,384
Mr Heading	8,220
Mr James	17,845
Mr Jordan	5,480
Mr Mayne	12,779
Mr Rendall	6,905
Ms Schwager	4,055
Total	83,592

(a) Members of the Board other than the three ex officio members receive daily fees for attending Board and Working Group meetings. In some cases these fees are paid to their employing organisations. With effect from 1 July 2006, daily fees were set at \$725 for the Chairman and \$548 for members. Fees at the same rates are paid where non-government members are engaged in business of the Board other than attendance at formal meetings — such as representing the Board in meetings with external bodies, giving presentations, or working on Board reports. Non-government members of the Board were engaged to differing degrees in these activities during 2006-07.

APPENDIX H: MEMBERS OF THE BOARD'S ADVISORY PANEL

Table 9: Members of Advisory Panel as at 30 June 2007

Panel Member:	Position, Organisation:
Associate Professor Stephen Barkoczy	Associate Professor, Monash University and Consultant, Blake Dawson Waldron
Ms Sarah Bernhardt	Tax Partner, Allens Arthur Robinson
Ms Narelle Butler	Barrister and Chartered Accountant
Mr Alf Capito	Partner, Ernst & Young Australia
Mr Michael Clough	Partner, Mallesons Stephen Jaques
Mr Gordon Cooper AM	Principal, Cooper & Co.
Professor Chris Evans	Director, Australian Taxation Studies Program (Atax), University of New South Wales
Mr Ian Farmer	Partner Tax Services, PricewaterhouseCoopers
Mr Richard Friend	Balena Tassa Pty Ltd
Mr Mark Friezer	Partner, Clayton Utz
Mr John Gonsalves	National Tax Director, Ernst & Young Australia
Mr Michael Hay	Partner, Pitcher Partners
Mr Greg Hayes	Senior Partner, Hayes Knight
Mr Michael Hennessey	Partner, Ernst & Young Australia
Mr Emanuel Hiou	Head of Group Taxation, National Australia Bank
Mr Paul Hooper	General Manager, Tax and Finance, Lend Lease Corporation Ltd
Mr Larry Magid	Partner, Allens Arthur Robinson
Professor Myles McGregor-Lowndes OAM	Director, Centre of Philanthropy and Nonprofit Studies, Faculty of Business, Queensland University of Technology
Associate Professor Ann O'Connell	Faculty of Law, University of Melbourne and Special Counsel, Allens Arthur Robinson
Mr Frank O'Loughlin	Barrister

Appendix H: Members of the Board's Advisory Panel

Panel Member:	Position, Organisation:
Mr Brian Richards	Partner, BDO Kendalls
Dr Tony Rumble	Chief Executive Officer, SavingsFactory Ltd
Mr Ken Schurgott	Partner, Cosoff Cudmore Knox
Mr Ken Spence	Partner, Shaddick & Spence
Mr Mark West	Partner, McCullough Robertson

