

# **THE BOARD OF TAXATION**

2007-08 ANNUAL REPORT

NOVEMBER 2008

© Commonwealth of Australia 2008  
ISBN 978-0-642-74487-6

This work is copyright. Apart from any use as permitted under the *Copyright Act 1968*, no part may be reproduced by any process without prior written permission from the Commonwealth. Requests and inquiries concerning reproduction and rights should be addressed to:

Commonwealth Copyright Administration  
Attorney-General's Department  
Robert Garran Offices  
National Circuit  
CANBERRA ACT 2600

Or posted at:  
<http://www.ag.gov.au/cca>

A copy of this document appears on the Board of Taxation website:  
<http://www.taxboard.gov.au>

# CONTENTS

<b>INQUIRIES .....</b>	<b>v</b>
<b>INTRODUCTION.....</b>	<b>1</b>
The Board's mission.....	1
The Board's functions .....	1
<b>ACTIVITIES OF THE BOARD IN 2007-08 .....</b>	<b>3</b>
Overview .....	3
Meetings .....	4
Scoping study of tax compliance costs facing the small business sector .....	4
Review of the taxation treatment of off-market share buybacks .....	5
Review of anti-tax-deferral regimes.....	6
Consultation on the application of consistent self assessment principles .....	6
Review of the tax arrangements applying to managed investment trusts.....	7
Review of the legal framework for the administration of the GST.....	8
Standard business reporting.....	9
Consultation.....	9
Advisory Panel .....	9
Other resources available to the Board.....	10
The Board of Taxation website .....	10
<b>THE YEAR AHEAD.....</b>	<b>11</b>
Consultation.....	11
Review of anti-tax-deferral regimes.....	12
Review of managed investment trusts .....	12
Review of the legal framework for the administration of the GST.....	13
Standard business reporting.....	13
Post-implementation reviews .....	13
Rationalisation of the two Income Tax Assessment Acts .....	13

## Contents

### APPENDICES

Appendix A: Membership of the Board .....	15
Appendix B: The Board's Charter .....	21
Appendix C: Attendance at Board meetings .....	25
Appendix D: Board Working Groups.....	27
Appendix E: Consultation by the Board .....	29
Appendix F: Consultancies .....	31
Appendix G: Financial Statements.....	33
Appendix H: Members of the Board's Advisory Panel.....	35

### LIST OF TABLES

Table 1: Board of Taxation meetings, 2007-08 .....	4
Table 2: Attendance at Board meetings, 2007-08.....	25
Table 3: Membership of Board Working Groups.....	27
Table 4: Speeches and presentations, 2007-08.....	29
Table 5: Meetings with external organisations, 2007-08.....	30
Table 6: Consultancies over \$10,000 in 2007-08.....	31
Table 7: Revenue, expenses and operating result .....	33
Table 8: Fees paid to non-government Board members, 2007-08 .....	34
Table 9: Members of Advisory Panel as at 30 June 2008 .....	35

## INQUIRIES

Inquiries regarding this report may be directed to:

Board of Taxation Secretariat  
c/- The Treasury  
Langton Crescent  
PARKES ACT 2600

Telephone: 02 6263 4366  
Facsimile: 02 6263 4471  
Email: [taxboard@treasury.gov.au](mailto:taxboard@treasury.gov.au)



## 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 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;
- improvements to the general integrity and functioning of the taxation system;

## Introduction

- 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 2007-08

### Overview

During 2007-08, the Board reported to the Government on:

- a scoping study of tax compliance costs facing the small business sector to identify the more important areas where compliance costs might be reduced. The study was submitted to the Government in December 2007; and
- a review of the taxation treatment of off-market share buybacks. The report was submitted to the Government in June 2008.

The Board also made significant progress to near completion on a review 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.

The Board undertook some initial consultation on the application of consistent self assessment principles. The Board also received two new references from the Government:

- a review of the tax arrangements applying to managed funds that operate as managed investment trusts, to report in mid-2009; and
- a review of the legal framework for the administration of the GST, to report in December 2008. This review replaced the consultation on the application of consistent self assessment principles.

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 2007-08, as shown in Table 1. The Board is looking to extend its outreach further in 2008-09, 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, 2007-08**

Date	Location
20 July 2007	Sydney
17 August 2007	Melbourne
14 September 2007	Sydney
19 October 2007	Canberra
16 November 2007	Melbourne
7 December 2007	Sydney
1 February 2008	Sydney
4 March 2008	Sydney
18 April 2008	Melbourne
12 June 2008	Sydney

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 2007-08 and their membership is provided at Appendix D. Each of these Working Groups met on numerous occasions during 2007-08 and engaged in extensive consultation in relation to the projects. These consultations are outlined in general terms in Appendix E.

## Scoping study of tax compliance costs facing the small business sector

The Board completed its scoping study of small business tax compliance costs during 2007-08. The then Treasurer asked the Board to undertake this project on 4 November 2005.

As a scoping study it identifies the factors that influence compliance costs and draws out of those factors some guidance on the kinds of issues that should be considered in reducing compliance costs for small business, as well as

identifying some areas where there might be opportunities to reduce compliance costs further. In doing so, the Board notes that some progress has been made in recent years in addressing the compliance burden of small business through the review and reform of legislation and administration. The Board's conclusions are presented as a series of 31 findings.

The Board's report draws heavily on input from small businesses and tax agents who gave freely of their time to improve its understanding of the factors influencing compliance costs. Treasury, the Tax Office and the Office of Small Business also provided invaluable advice to the Board. In preparing its report the Board took into account the various discussions with stakeholders and the consultants' evaluations.

The Board completed its scoping study of small business compliance costs and provided the study to the Treasurer in December 2007. The Board's report is expected to be available at the time the Government releases its response to the report.

## Review of the taxation treatment of off-market share buybacks

During 2007-08, the Board completed the review of the taxation treatment of off-market share buybacks. On 10 October 2006 the then Government announced that it had asked the Board of Taxation to undertake this review.

On 16 July 2007, the Board of Taxation released its discussion paper on the review of the taxation treatment of off-market share buybacks.

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. In addition, the Board invited submissions to the review.

In reviewing the taxation treatment of off-market share buybacks the Board considered the benefits that off-market buybacks can bring to companies and the operation of the capital markets, and the equity concerns that have been raised about some shareholders benefiting at the expense of others. The

recommendations set out in the final report seek to weigh up these issues while providing a way forward to reduce the heavy compliance and administrative costs that the current taxation treatment can impose on taxpayers and the Australian Taxation Office.

The Board completed its review of the taxation treatment of off-market share buybacks and provided its report to the Treasurer in June 2008. The Board's report is expected to be available at the time the Government releases its response to the report.

## Review of anti-tax-deferral regimes

On 10 October 2006 the then 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.

During 2007-08, the Board made considerable progress on this review. On 12 March 2008, the Board of Taxation released a position paper on the review. This was followed by the release of an issues paper by the Board on 19 May 2008.

To assist in the review process, the Board conducted further consultation meetings in May 2008. Meetings were held on 26 May 2008 in Melbourne and 30 May 2008 in Sydney. The consultation meetings were attended by representatives from taxation professional bodies, major law and accounting firms, various major corporations and business associations. The Board requested written submissions on the review by 20 June 2008.

After considering the views of all stakeholders the Board will prepare its report and provide its recommendations to Government in the fourth quarter of 2008.

## Consultation on the application of consistent self assessment principles

On 27 March 2007 the then 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.

During 2007-08, progress was made on this project. However, on 11 June 2008, the Assistant Treasurer and Minister for Competition Policy and Consumer Affairs announced that he had asked the Board to undertake a review of the legal framework for the administration of the GST. It was determined that the new review would replace the current review of the application of the income tax self-assessment principles to other taxes administered by the Taxation Commissioner. The Board's findings on the GST could later inform any consideration of the application of self assessment principles to other taxes.

## Review of the tax arrangements applying to managed investment trusts

On 22 February 2008 the Assistant Treasurer and Minister for Competition Policy and Consumer Affairs announced that he had asked the Board of Taxation to undertake a review of the tax arrangements applying to managed funds that operate as managed investment trusts.

The objective of the review is to provide advice on options for introducing a specific tax regime for managed investment trusts which would reduce complexity, increase certainty and minimise compliance costs.

The Board has appointed a working group of its members comprising Mr John Emerson (Chairman), Mr Keith James, Mr Chris Jordan and Mr Dick Warburton to oversee the Board's review of the tax arrangements applying to managed investment trusts. The Board has also appointed two experts from the Advisory Panel, Ms Teresa Dyson and Mr Ken Schurgott, to the working group. As an additional resource, the Board has established an expert panel for this review which consists of professionals with specialist knowledge in the subject matter.

During 2007-08, the Board made progress on this review. The Board expects to release a discussion paper in the third-quarter of 2008 and to undertake

extensive public consultations. Submissions will be sought from stakeholders on the questions raised in the discussion paper.

The Board has been asked to provide a final report to the Government around the middle of 2009.

## Review of the legal framework for the administration of the GST

On 11 June 2008 the Assistant Treasurer announced that he had asked the Board of Taxation to undertake a review of the legal framework for the administration of the GST.

This review will replace the Board's previous review of the application of the self-assessment principles to other taxes administered by the Taxation Commissioner. In addition, the Board has been asked to consider the implications of any possible changes to GST administration provisions for other indirect taxes that currently share common tax administration provisions in the Tax Administration Act or the GST Act.

The focus of the review will be on:

- streamlining and improving the operation of the GST;
- reducing compliance costs; and
- removing anomalies.

The Board's review will not extend to the rate of the GST or the scope and extent of what goods and services are subject to the GST.

The Board has appointed a working group of its members comprising Mr Eric Mayne (Chairman), Mr Chris Jordan, Mr Curt Rendall and Mr Dick Warburton to oversee the Board's review. The Board has also established an expert panel to assist with this review.

The Board has made significant progress on this report in a short amount of time. The Board has been asked to consult with stakeholders including small and large businesses, professional bodies and State and Territory Governments and to provide a final report to the Government by the end of December 2008.

## Standard business reporting

The Board has had an active role during 2007-08 in encouraging the development of the Standard Business Reporting (SBR) program. The SBR program is a long term initiative to cut red tape for business when reporting to government which was launched by the then Treasurer on 30 August 2007. In addition to receiving regular briefings on progress with the development of the initiative and providing feedback and advice, a Board member, Mr Curt Rendall, serves on the SBR Board. The SBR Board, chaired by the Secretary to the Treasury, is a management board that oversees the higher level direction of the program.

## Consultation

During 2007-08 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 2007-08 are shown in Table 5 at Appendix E. During this period 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. The Board also had less formal consultation with a range of business and tax professionals.

## 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 28 taxation professionals who have agreed to voluntarily assist the Board 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 in 2007-08

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 2007-08 to discuss Board projects and general issues associated with the integrity and functioning of the tax system. A number of Advisory Panel members are also assisting the Board with the managed investment trusts and GST projects.

Membership of the Advisory Panel changes from time to time and is reviewed periodically by the Board. Following a review in late 2007, three members retired from the Panel and six new members were appointed. The Board wishes to record its appreciation for the contributions made by Panel members to the Board's work during 2007-08. Panel membership as at 30 June 2008 is set out at Appendix H.

## Other resources available to the Board

The Board draws on a range of resources when undertaking its reviews. The review of the anti-tax-deferral regimes has drawn extensively on the input of several tax advisers and academics. This provided the Board with a resource against which to test its ideas as consideration of this review progressed. This review has also benefited from the assistance of a dedicated team within Treasury which has provided technical and policy input for the review.

The review of the tax arrangements applying to managed funds that operate as managed investment trusts and the review of the legal framework for the administration of the GST have both appointed Expert Panels drawn from the Advisory Panel to assist the Board's Working groups. Both reviews have also had contributions from teams in Treasury and, in the case of the GST review, an ATO team.

## The Board of Taxation website

The Board of Taxation's website [www.taxboard.gov.au](http://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*.<sup>1</sup> 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](http://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 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. The report made a number of other recommendations directed at all participants in the tax consultation

---

1 Available on the Board's website, [www.taxboard.gov.au](http://www.taxboard.gov.au).

## The year ahead

system. During 2008-09, 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.

The Board will also have a role in implementing some of the recommendations of the Tax Design Review Panel. The Government announced on 22 August 2008 that it had accepted all of the Panel's recommendations. One of these recommendations was that the Board of Taxation would review the tax design process after two years and report to Government on the extent to which there are demonstrated improvements.

## Review of anti-tax-deferral regimes

The Board made significant progress with the review of the anti-tax-deferral regimes during 2007-08. The Board expects to provide a report to the Government in the third quarter of 2008.

## Review of managed investment trusts

For the review of the tax arrangements applying to managed investment trusts, the Board expects to release a discussion paper in the fourth-quarter of 2008 and to then undertake extensive public consultations. Submissions will be sought from stakeholders on the questions raised in the discussion paper.

The Board expects to finalise the report by the middle of 2009.

## Review of the legal framework for the administration of the GST

The Board has also made significant progress with the review of the legal framework for the administration of the GST.

The Board will conduct extensive consultation and expects to finalise the report by the end of 2008.

## Standard business reporting

The Board will maintain an ongoing involvement, including through membership in the SBR Board, in the SBR program in 2008-09 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. This was supported by the Tax Design Review Panel which recommended that the Government should more frequently ask the Board of Taxation to conduct formal post-implementation reviews of major policy initiatives, after two to three years of their operation.

## Rationalisation of the two Income Tax Assessment Acts

As part of fulfilling its Charter, the Board has over the past five 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.

## The year ahead

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.

There are opportunities for further rationalisation of the Acts in a number of the Board's reviews. The provisions relating to off-market share buybacks, the anti-tax-deferral regimes and the managed investment trusts are all in the ITAA 1936. Any change to the law which may be made as the result of the Board's reviews of these provisions offers an opportunity to move them into the ITAA 1997.

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 2007-08, the Treasurer reappointed Mr Richard Warburton and Mr Keith James for two-year terms ending on 14 April 2010 and Mr Chris Jordan and Mr Brett Heading for a one-year term ending on 14 April 2009.

The members of the Board during 2007-08 were:

### Chairman — Richard F E (Dick) Warburton AO

Mr Warburton is currently Chairman of Tandou Ltd and Magellan Flagship Fund Ltd and a director of Citigroup 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

## Appendix A: Membership of the Board

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 is recognised globally for his expertise and abilities as a leader and an innovator. He has been Commissioner of Taxation since 1 January 2006.

Since becoming Commissioner, he has championed corporate values that put taxpayers and the community at the centre of ATO thinking, with a view to reducing compliance costs and building community trust and confidence.

Prior to becoming Commissioner, Mr D'Ascenzo was Second Commissioner (Law) and Chief Tax Counsel concurrently, overseeing law interpretation, corporate planning, finance and governance. During his career he pioneered many advances in administration including improvements to Australia's self assessment system, making the tax system fairer and more certain.

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

### John Emerson AM

John Emerson has been a partner in Freehills, lawyers, 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 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 legal firm McCullough Robertson. 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 and director of Peanut Company of Australia Ltd and Australian Agricultural Company Ltd. He has diverse personal agribusiness interests in the South Burnett in Queensland (cattle, vineyard, lucerne and olive operations and the wine producer Clovelly Estate). 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 matters 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 recently appointed Chair of the Review into Australia's Future Tax System. He is also Chair of the Standard Business Reporting Board, Chair of the Advisory Board of the Australian Office of Financial Management, Chair of the ANZSOG Research Committee and Joint-Chair of the Trans-Tasman Banking Council. He is a member of the Board of the Reserve Bank of Australia, the Board of Infrastructure Australia, the National Broadband Network Panel of Experts, the Council of Financial Regulators, and the COAG Working Groups on the Productivity Agenda and Indigenous Reform. Dr Henry is Alternate Governor (for Australia) of the International Monetary Fund.

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, his 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.

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. He also chairs the ASX Corporate Governance Council.

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

Mr Mayne joined 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, including as the National Managing Partner for approximately 5 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 PSM

Mr Quiggin is the First Parliamentary Counsel of the Office of Parliamentary Counsel, 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 the Office of Parliamentary Counsel for about 19 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 was awarded a Public Service Medal (PSM) in the 2008 Australia Day Honours.

Mr Quiggin has been an 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.

### Secretary to the Board of Taxation

#### Christine Barron

Ms Barron has held a number of senior positions in Treasury. She has experience across a wide range of areas of Treasury, including overseeing Treasury's involvement in the Pacific region, taxation policy and macroeconomic policy. Her experience in tax policy includes personal tax, fringe benefits tax, not-for-profit issues and indirect tax. Ms Barron has

#### Appendix A: Membership of the Board

secretariat experience from her role as Secretary to the Inquiry into the Definition of Charities and Related Organisations. She is also currently General Manager of the Indirect Tax Division of Treasury.

Ms Barron was appointed Secretary to the Board in January 2008.

#### Sue Vroombout (until November 2007)

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 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 Secretary to the Board from June 2006 to November 2007.

## 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, 2007-08**

Member	Number of meetings eligible to attend	Number of meetings attended
Mr Warburton (Chairman)	10	10
Mr Jordan (Deputy Chairman)	10	10
Mr D'Ascenzo <sup>(a)</sup>	10	10
Mr Emerson	10	10
Mr Heading	10	9
Dr Henry <sup>(a)</sup>	10	10
Mr James	10	9
Mr Mayne	10	9
Mr Quiggin <sup>(a)</sup>	10	10
Mr Rendall	10	9

(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**

<b>Scoping study of small business tax compliance costs</b>	<b>Review of off-market share buybacks</b>	<b>Review of anti-tax-deferral regimes</b>
Mr Warburton (Chairman)	Mr Heading (Chairman)	Mr Jordan (Chairman)
Mr D'Ascenzo	Mr Emerson	Mr James
Mr Mayne	Mr James	Mr Warburton
	Mr Mayne	
	Mr Warburton	

  

<b>Consultation on the application of consistent self assessment principles</b>	<b>Review of managed investment trusts</b>	<b>Review of the legal framework for the administration of the GST</b>
Mr Mayne (Chairman)	Mr Emerson (Chairman)	Mr Mayne (Chairman)
Mr Jordan	Mr James	Mr Jordan
Mr Rendall	Mr Jordan	Mr Rendall
	Mr Warburton	Mr Warburton



## APPENDIX E: CONSULTATION BY THE BOARD

**Table 4: Speeches and presentations, 2007-08**

Date	Presentation	Event	Member
27 November 2007 (Brisbane)	Address on the role of Standard Business Reporting	SBR/XBRL International Conference	Richard F E Warburton
7-8 February 2008 (Gold Coast)	Tax risk management- the view from the Boardroom	Taxation Institute of Australia Conference	Richard F E Warburton
12 March 2008 (Canberra)	Keynote Lunch Address — Future Directions for Business Taxation	Committee for Economic Development of Australia (CEDA) and the Australian Tax Research Foundation (ATRF) Joint Conference — 2008 Tax Policy Directions Forum	Richard F E Warburton
13 May 2008	Review of the foreign source income anti-tax-deferral (attribution) rules	Corporate Tax Association	Alf Capito (Advisory Panel member and member of Expert group for the review)
27 May 2008 (Sydney)	Tax Risk Management — The View from the Boardroom	Tax Institute of Australia Conference — 2008 Annual Tax Forum	Richard F E Warburton
6 June 2008	Background of the Review of managed investment trusts	Investment and Financial Services Association	John Emerson

**Table 5: Meetings with external organisations, 2007-08**

Date	Attendees
<p><b>26 July 2007</b> Board of Taxation Consultation Forum for Review of the Taxation Treatment of Off-Market Share Buybacks, Sydney</p>	<ul style="list-style-type: none"> <li>• Taxation professional bodies</li> <li>• Major law and accounting firms</li> <li>• Various major corporations and business associations</li> <li>• Officials from:                             <ul style="list-style-type: none"> <li>– The Treasury</li> <li>– Australian Taxation Office</li> </ul> </li> </ul>
<p><b>31 July 2007</b> Board of Taxation Consultation Forum for Review of the Taxation Treatment of Off-Market Share Buybacks, Melbourne</p>	<ul style="list-style-type: none"> <li>• Taxation professional bodies</li> <li>• Major law and accounting firms</li> <li>• Various major corporations and business associations</li> <li>• Officials from:                             <ul style="list-style-type: none"> <li>– The Treasury</li> <li>– Australian Taxation Office</li> </ul> </li> </ul>
<p><b>7 August 2007</b> Board of Taxation consultation meetings for the Review of the Anti-Tax Deferral Regimes, Sydney</p>	<ul style="list-style-type: none"> <li>• Investment and Financial Services Association</li> <li>• Brambles</li> <li>• Property Council of Australia</li> <li>• Telstra</li> <li>• Institute of Chartered Accountants of Australia</li> </ul>
<p><b>10 August 2007</b> Board of Taxation consultation meetings for the Review of the Anti-Tax Deferral Regimes, Melbourne</p>	<ul style="list-style-type: none"> <li>• Shaddick &amp; Spence</li> <li>• Pitcher Partners</li> <li>• Village Roadshow</li> <li>• BHP Billiton</li> <li>• PricewaterhouseCoopers</li> <li>• Australian Bankers' Association</li> </ul>
<p><b>4 March 2008</b> Board of Taxation meeting, Sydney</p>	<ul style="list-style-type: none"> <li>• Tax Design Review Panel</li> </ul>
<p><b>18 April 2008</b> Board of Taxation meeting, Melbourne</p>	<ul style="list-style-type: none"> <li>• Tax Design Review Panel</li> <li>• Melbourne-based members of the Board's Advisory Panel</li> </ul>
<p><b>26 May 2008</b> Board of Taxation consultation meetings for the Review of the Anti-Tax Deferral Regimes, Melbourne</p>	<ul style="list-style-type: none"> <li>• Taxation professional bodies</li> <li>• Major law and accounting firms</li> <li>• Various major corporations and business associations</li> <li>• Officials from:                             <ul style="list-style-type: none"> <li>– The Treasury</li> <li>– Australian Taxation Office</li> </ul> </li> </ul>
<p><b>30 May 2008</b> Board of Taxation consultation meetings for the Review of the Anti-Tax Deferral Regimes, Sydney</p>	<ul style="list-style-type: none"> <li>• Taxation professional bodies</li> <li>• Major law and accounting firms</li> <li>• Various major corporations and business associations</li> <li>• Officials from:                             <ul style="list-style-type: none"> <li>– The Treasury</li> <li>– Australian Taxation Office</li> </ul> </li> </ul>
<p><b>12 June 2008</b> Board of Taxation meeting, Sydney</p>	<ul style="list-style-type: none"> <li>• Sydney-based and Brisbane-based members of the Board's Advisory Panel</li> </ul>

## 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 2007-08, the Board engaged 2 consultancies for an amount over \$10,000, for a total value of \$59,000. Details of these consultancies are in Table 6. The actual expenditure for these consultancies, consultancies completed in 2007-08 and for payments made to service providers in 2007-08 was \$22,182 (GST exclusive).

**Table 6: Consultancies over \$10,000 in 2007-08**

Consultant	Project	Engaged Cost (\$) <sup>1</sup>	Procurement Method <sup>2</sup>	Reason <sup>3</sup>
Anthony Slater, QC	Provision of consultancy services advising the Board of Taxation of its review of taxation arrangements applying to Managed Investment Trusts	29,000	Select	B
Richard Vann	Provision of consultancy services advising the Board of Taxation of its review of taxation arrangements applying to Managed Investment Trusts	30,000	Select	B
<b>Total consultancies over \$10,000</b>		<b>59,000</b>		

Note — All amounts are GST inclusive.

(1) Cost of completed consultancies in 2007-08.

i Consultancy – Actual cost was \$24,000

(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**

	2006-07	2007-08
	\$	\$
<b>Revenue</b>		
Funding from Government	2,000,000	2,000,000
Services provided free of charge	70,747	30,008
Revenue — Other	48	
<b>Total revenue</b>	<b>2,070,795</b>	<b>2,030,008</b>
<b>Expenses</b>		
Employee expenses <sup>(a)</sup>		
Wages	291,657	331,983
Superannuation	92,514	78,189
Other employee expenses	160,380	138,063
Total employee expenses	544,551	548,235
Other expenses		
Travel	133,338	127,680
Communications	382	161
Conferences and training	22,586	17,627
Consultants and contracts	102,035	22,182
Contractors and seconded employees	70,747	94,562
Office supplies	695	179
Printing	5,150	7,750
Publications and subscriptions	1,507	2,547
Other supplier expenses <sup>(b)</sup>	102,618	107,298
Total operating expenses	439,058	379,986
<b>Total expenses</b>	<b>983,609</b>	<b>928,221</b>
<b>Operating surplus</b>	<b>1,087,186</b>	<b>1,101,787</b>

(a) The 2007-08 average staffing level of the Board secretariat was 3.8 compared with 3.5 in 2006-07. Of total employee expenses of \$548,235 in 2007-08, \$466,149 was attributed to the Secretariat. The balance of \$82,086 comprises payments to non-Government members of the Board (the total figure of \$80,216 shown in Table 8 'Fees paid to non-Government Board members, 2007-08' plus \$1,870 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 2007-08 this payment was \$100,000.

**Table 8: Fees paid to non-government Board members, 2007-08<sup>(a)</sup>**

Member	\$
Mr Warburton (Chairman)	26,882.60
Mr Emerson	7,664.80
Mr Heading	8,580.00
Mr James	14,161.61
Mr Jordan	10,915.20
Mr Mayne	5,720.02
Mr Rendall	6,292.00
<b>Total</b>	<b>80,216.23</b>

(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 2007, daily fees were set at \$756 for the Chairman and \$572 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 2007-08.

## APPENDIX H: MEMBERS OF THE BOARD'S ADVISORY PANEL

**Table 9: Members of Advisory Panel as at 30 June 2008**

Panel Member	Position, Organisation
Mr Steve Baxter	Associate Director, Indirect Tax Consulting Group
Ms Sarah Bernhardt	Tax Partner, Allens Arthur Robinson
Mr Christopher Branson QC	Barrister, Law Council of Australia
Mr Frank Brody	Partner, Malleson Stephen Jaques
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.
Ms Teresa Dyson	Partner, Blake Dawson
Professor Chris Evans	Director, Australian Taxation Studies Program (Atax), University of New South Wales
Mr Michael Evans	Partner, KPMG
Mr Ian Farmer	Partner Tax Services, PricewaterhouseCoopers
Mr Richard Friend	Principal, Balena Tassa Pty Ltd
Mr Michael Hay	Partner, Pitcher Partners
Mr Greg Hayes	Senior Partner, Hayes Knight
Mr Matthew Hayes	Partner, Australian Tax Centre, KPMG
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

**Table 9: Members of Advisory Panel as at 30 June 2008 (continued)**

<b>Panel Member</b>	<b>Position, Organisation</b>
Associate Professor Ann O'Connell	Faculty of Law, University of Melbourne and Special Counsel, Allens Arthur Robinson
Mr Frank O'Loughlin	Barrister
Mr Brian Richards	Partner, BDO Kendalls
Dr Tony Rumble	Chief Executive Officer, SavingsFactory Ltd
Mr Ken Schurgott	Director, SBN Lawyers
Mr Ken Spence	Director, Greenwoods & Freehills
Mr Mark West	Partner, McCullough Robertson