

THE BOARD OF TAXATION

2012 — 2013 ANNUAL REPORT

NOVEMBER 2013

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CONTENTS

INQUIRIES	V
INTRODUCTION	1
The Board's mission	1
The Board's functions	1
ACTIVITIES OF THE BOARD IN 2012-13	3
Overview	3
Meetings.....	3
Post-implementation review into certain aspects of the consolidation tax cost setting process.....	4
Review of the tax arrangements applying to permanent establishments.....	5
Post-implementation review of Division 7A of Part III of the <i>Income Tax Assessment Act 1936</i>	7
Review of the debt and equity tax rules.....	8
Review of the thin capitalisation arm's length test	9
Tax Issues Entry System	9
Consultation	10
Advisory Panel.....	10
Treasury and Australian Taxation Office involvement.....	10
Assistance provided for the Board's reviews	11
The Board of Taxation website	12
THE YEAR AHEAD	13
Consultation	13
Post-implementation review of Division 7A of Part III of the <i>Income Tax Assessment Act 1936</i>	14
Review of the debt and equity tax rules.....	14
Review of the thin capitalisation arm's length test	14
Tax Issues Entry System (TIES)	14

APPENDICES

Appendix A: Membership of the Board	15
Appendix B: The Board's Charter	23
Appendix C: Attendance at Board meetings	27
Appendix D: Board Working Groups.....	29
Appendix E: Consultation by the Board.....	31
Appendix F: Consultancies	35
Appendix G: Financial Statements.....	37
Appendix H: Members of the Board's Advisory Panel.....	39

LIST OF TABLES

Table 1: Board of Taxation meetings, 2012-13.....	3
Table 2: Attendance at Board meetings, 2012-13.....	27
Table 3: Membership of Board Working Groups, 2012-13.....	29
Table 4: Speeches and presentations, 2012-13.....	31
Table 5: Meetings with external organisations, 2011-12.....	32
Table 7: Revenue, expenses and operating result	37
Table 8: Salary paid to non-government Board members, 2012-13	38
Table 9: Members of Advisory Panel as at 30 June 2013	39

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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 Board comprises up to ten members, a maximum of seven of whom, including the Chair, Mrs Teresa Dyson, are 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 set out 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;
- research and other studies commissioned by the Board on topics approved or referred by the Treasurer; and

Introduction

- **other taxation matters referred to the Board by the Treasurer.**

ACTIVITIES OF THE BOARD IN 2012-13

Overview

During 2012-13, the Board reported to the Government on:

- a post-implementation review of certain aspects of the consolidation tax cost setting process; and
- a review of the tax arrangements applying to permanent establishments.

The Board continued progress on its post-implementation review of Division 7A of Part III of the *Income Tax Assessment Act 1936*.

During 2012-13, the Board received the following two new references from the Government:

- a review of the debt and equity tax rules; and
- a review of the thin capitalisation arm's length test.

The Board continued its 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 2012-13, as shown in Table 1, at varying locations. Details of Board members' attendance at meetings are provided at Appendix C.

Table 1: Board of Taxation meetings, 2012-13

Date	Location
10 August 2012	Sydney
14 September 2012	Perth
12 October 2012	Brisbane
9 November 2012	Melbourne
14 December 2012	Sydney

Date	Location
8 February 2013	Sydney
8 March 2013	Canberra
12 April 2013	Sydney
17 May 2013	Canberra
14 June 2013	Brisbane

The Board conducts its projects by appointing a working group comprising members of the Board, Advisory Panel members, consultants, and officers from the Treasury and the Australian Taxation Office, to oversee the process.

A list of working groups for 2012-13, and the Board members appointed to each working group, is provided at Appendix D. Each of these working groups met on numerous occasions during 2012-13 and engaged in intensive consultation in relation to the projects. These consultations are outlined in general terms in Appendix E. All projects undertaken in 2012-13 are also outlined in further detail below.

Post-implementation review into certain aspects of the consolidation tax cost setting process

On 3 June 2009, the then Assistant Treasurer and Minister for Competition Policy and Consumer Affairs announced that the Board would undertake a post-implementation review of certain aspects of the consolidation regime.

The aspects of the consolidation regime that were subject to the review were:

- the operation of the single entity rule;
- the operation of the entry history rule in acquisition cases;
- the interaction between the consolidation provisions and other parts of the income tax law; and
- the effectiveness of the consolidation regime for small business groups.

In March 2011, the Government asked the Board to undertake a review of the consolidation rights to future income and residual tax cost setting rules. The Board finalised this review and provided a report to the Government in

May 2011. The Board's report recommended that the Government investigate two further aspects of the consolidation regime: the tax treatment of liabilities in the consolidation regime; and whether the tax cost setting amount of assets should be capped. On 25 November 2011, the Government requested that the Board include these two aspects in its consolidation post-implementation review.

The Board divided the consolidation post-implementation review into two stages. The first stage focused on the policy framework for the consolidation regime, the operation of the single entity rule, interactions between the consolidation regime and other parts of the income tax law, and the operation of the consolidation regime for small business corporate groups. The Board completed its consideration of these issues and provided a final report to the Government in June 2012.

In the second stage of the consolidation post-implementation review, the Board reviewed the tax treatment of liabilities and the capping of the tax cost setting amount of assets in the consolidation regime. The Board also looked further into some issues that were raised in the first stage of the post-implementation review that remained outstanding, such as the treatment of deferred tax liabilities and the interaction between the consolidation regime and certain parts of the capital gains tax rules.

To oversee stage two of the consolidation post-implementation review, the Board appointed a working group of its members comprising Mr Keith James (Chair), Mrs Teresa Dyson, Mr Chris Jordan AO (until his appointment as Commissioner of Taxation in 2013) and Mr Curt Rendall.

The Board completed stage two of the consolidation post-implementation review and provided its report to the Government in April 2013.

Review of the tax arrangements applying to permanent establishments

On 24 March 2012, the Assistant Treasurer and Minister Assisting for Deregulation announced that the Board would undertake a review of tax arrangements applying to permanent establishments.

The Board was asked to examine and report on the advantages and disadvantages of Australia adopting the functionally separate entity approach

to the determination of profits attributable to a permanent establishment in its tax treaty negotiations and in domestic law.

This review arose from the new Article 7 (Business Profits) and commentary approved by the OECD in its 2010 Model Tax Convention on Income and on Capital, which authorised an approach to the attribution of profits to permanent establishments that more clearly hypothesises the permanent establishment as a separate enterprise from the enterprise of which it is a part and applies usual transfer pricing principles, subject to the required functional analysis determining the recognition of relevant 'dealings' between the permanent establishment and the enterprise's other operations.

The review was asked to have regard to the broad principle that profits attributed to the Australian tax base should appropriately reflect economic activity undertaken in Australia. As far as practicable, the relevant rules should be aligned with and interpreted consistently with international standards.

As part of this review, the Board was also asked to advise on the continued appropriateness of having a safe harbour for the interest rate that may be charged for the use of internal funds by foreign banks in their Australian branches, as a proxy for arm's length interest rates, and, if so, the suitability of the LIBOR (London Interbank Offered Rate) cap for that role.

The Board appointed a working group of its members comprising Ms Annabelle Chaplain (Chair), Mr Chris Jordan AO (until his appointment as Commissioner of Taxation in 2013), Mrs Teresa Dyson and Mr John Emerson AM to oversee this review.

In August and September 2012 the Board held targeted consultations in Sydney and Melbourne to inform the preparation of a discussion paper.

In October 2012, the Board released its discussion paper to invite and facilitate submissions. In response, the Board received eight written submissions, including two confidential submissions from stakeholders.

In November and December 2012 the Board held further targeted consultations and invited further feedback from stakeholders to inform the preparation of its report.

The Board completed its review and provided its report to the Government in April 2013.

Post-implementation review of Division 7A of Part III of the *Income Tax Assessment Act 1936*

On 18 May 2012, the Assistant Treasurer and Minister Assisting for Deregulation announced that the Board would undertake a post-implementation review of Division 7A of Part III of the *Income Tax Assessment Act 1936*.

Division 7A contains integrity provisions designed to prevent shareholders (or their associates) of private companies from inappropriately accessing the profits of those companies in the form of payments, loans or debt forgiveness transactions.

The Board has been asked to:

- examine whether Division 7A gives effect to this policy intent;
- examine whether there are any problems with the current operation of Division 7A, including its interaction with other areas of the tax law, that are producing unintended outcomes or disproportionate compliance and administration costs; and
- to the extent that there are problems, recommend options for resolving them so that, having regard to the policy intent of Division 7A and potential compliance and administration costs, the tax law operates effectively.

The Board has also been asked to examine the potential for broader reforms to Division 7A, including whether the provisions could be expressed in a clearer and simpler manner, whilst maintaining the integrity of the tax law and revenue neutral or near revenue neutral outcomes.

The Board has appointed a working group of its members comprising Mr Curt Rendall (Chair), Mr Keith James and Ms Elizabeth Jameson to oversee this review. In addition, the Board has asked Mr Mark West, a member of its Advisory Panel, to be a member of the Board's working group.

The Board held targeted consultation meetings in Brisbane (July 2012), in Melbourne and Sydney (August 2012) and in Perth (September 2012) to inform the preparation of a discussion paper.

In December 2012 the Board released its discussion paper to invite and facilitate submissions. In response, the Board received 19 written submissions, including three confidential submissions from stakeholders.

The Board wrote to the Assistant Treasurer in late June 2013, seeking an extension to its reporting date. The Government agreed to an extension to 31 October 2013.

Review of the debt and equity tax rules

On 14 May 2013, the Deputy Prime Minister and Treasurer and the Assistant Treasurer announced that the Board would undertake a post-implementation review of the debt and equity rules.

The Board was also asked to examine whether there are any unintended misalignments between the debt and equity distinction and related concepts in the income tax law which could potentially result in inconsistent policy outcomes. A further component of the review is an examination as to whether there can be improved arrangements within the Australian tax system to address any inconsistencies between Australia's and other jurisdictions' debt and equity rules that could give rise to tax arbitrage opportunities.

To the extent that there are unintended misalignments between the debt and equity distinction and related concepts in the income tax law, the Board should also examine the potential for broader application of the current debt and equity rules to ensure consistent policy outcomes.

The debt and equity rules were introduced to classify certain financial arrangements as debt or equity for specified tax purposes (for example, the thin capitalisation rules and the interest and dividend withholding rules) on the basis of the 'economic substance' of the arrangement rather than merely on the basis of the legal form. The rules have now been in operation for over a decade.

The Board has established a working group of its members comprising Mrs Teresa Dyson (Chair of the working group) and Mr John Emerson AM to oversee this review.

After considering views from stakeholders, the Board expects to provide a final report to Government by the end of March 2015.

Review of the thin capitalisation arm's length test

On 14 May 2013, the Deputy Prime Minister and Treasurer and the Assistant Treasurer announced that the Government would ask the Board of Taxation to undertake a review of the arm's length debt test as it applies to the thin capitalisation rules. The review is aimed at making the test easier to comply with and administer, and to clarify in what circumstances it should apply.

The arm's length test is intended to provide a carve-out from the thin capitalisation rules for a level of debt which is considered to be 'commercial or independent'. The arm's length test focuses on what the business acting at arm's length would borrow and what independent commercial lenders would lend to the business.

The Board has established a working group of its members comprising Ms Elizabeth Jameson (Chair of the working group), Mrs Teresa Dyson and Mr Keith James to oversee this review. In addition, the Board has asked Mr Mark Goldsmith, a member of its Advisory Panel, to be a member of the Board's working group.

After considering the views from stakeholders the Board expects to provide a final report to Government by the end of December 2014.

Tax Issues Entry System

In addition to its work on commissioned reviews, the Board continued to provide assistance to the Tax Issues Entry System, which is an Australian Government initiative jointly managed by the Australian Taxation Office and the Department of the Treasury. The Board engaged a panel of consultants, which together with the Board's Deputy Chair, Mr Keith James, contributed to the assessment of issues raised by the community relating to the care and maintenance of the Australian Government's tax and superannuation systems.

Consultation

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 2012-13 are detailed in Table 5 at Appendix E.

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 48 taxation specialists 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.

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 2012-13 to discuss Board projects and general issues associated with the integrity and functioning of the tax system.

Membership of the Advisory Panel changes from time to time and is reviewed periodically by the Board. During 2012-13 six members retired from the Panel and 22 new members were appointed.

The Board wishes to record its appreciation for the contributions made by Panel members to the Board's work during 2012-13. Panel membership as at 30 June 2013 is set out at Appendix H.

Treasury and Australian Taxation Office involvement

The Board draws substantially on work done by officers of the Treasury and ATO when undertaking its reviews.

The Board wishes to record its appreciation for the extensive assistance provided by the Treasury and ATO officers involved in the Board's work during the 2012-13 year.

Assistance provided for the Board's reviews

Assistance for the Board's post-implementation review into certain aspects of the consolidation tax cost setting process has been provided by:

- an Expert Panel comprising Mr Paul Lyon, Mr Peter Murray, Mr Wayne Plummer and Mr Tony Stolarek;
- Mr Alexis Kokkinos, Mr Andrew Mills and Mr Ken Spence were engaged as consultants; and
- officers from the Treasury and the ATO.

Assistance for the Board's review of the tax arrangements applying to permanent establishments was provided by:

- an Expert Panel comprising Mr Tony Frost, Mr Ian Fullerton, Mr Paul Hooper and Mr Michael Johnston;
- Professor Richard Vann, Mr Satyajit Das and Mr Bob Jones, were engaged as consultants; and
- officers from the Treasury and the ATO.

Assistance for the Board's post-implementation review of Division 7A of Part III of the *Income Tax Assessment Act 1936* is being provided by:

- an Expert Panel comprising Mr Noel Beharis, Mr Michael Binetter, Mr Fletch Heinemann, Mr Alexis Kokkinos, Mr Mark Molesworth and Mr Michael Parker;
- Mr Mark West was engaged as a consultant; and
- officers from the Treasury and the ATO.

Assistance for the review of the debt and equity tax rules is being provided by officers from the Treasury and the ATO (with an Expert Panel and consultants to be engaged in 2013-14).

Assistance for the review of the thin capitalisation arm's length test is being provided by officers from the Treasury and the ATO (with an Expert Panel and consultants to be engaged in 2013-14).

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 then Treasurer on *Government Consultation with the Community on the Development of Taxation Legislation*.¹ Following this report, the then Treasurer announced the Government's in-principle position in relation to community consultation in the development of tax policy and legislation.

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 its 2007 report, *Improving Australia's tax consultation system*,² 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 system.

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.

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

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

The year ahead

Post-implementation review of Division 7A of Part III of the *Income Tax Assessment Act 1936*

The Board expects to provide a final report on its review Division 7A of Part III of the *Income Tax Assessment Act 1936* by the end of October 2013.

Review of the debt and equity tax rules

The Board expects to provide a final report on its review of the debt and equity tax rules by the end of March 2015.

Review of the thin capitalisation arm's length test

The Board expects to provide a final report on its review of the thin capitalisation arm's length test by the end of December 2014.

Tax Issues Entry System (TIES)

The Board will continue providing assistance to the assessment of TIES issues raised by the community.

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.

The members of the Board during 2012-13 were:

Chair — Mr Chris Jordan AO (until his appointment as Commissioner of Taxation in January 2013)

Mr Jordan was previously Chair of KPMG New South Wales and Partner in Charge of the New South Wales Tax and Legal Division of KPMG. He is the former Chair of the New Tax System Advisory Board and was also the State Chair of the New South Wales Division of the Taxation Institute of Australia. He was appointed by the NSW Government to the Games Advisory Committee of the Sydney 2009 World Masters Games.

Until his appointment as Commissioner of Taxation in January 2013, Mr Jordan was a member of the Sydney Children's Hospital Foundation Board, the Board of the Bell Shakespeare Company, a member of the Audit Risk Committee of the Art Gallery of NSW and Chair of the Committee for Sydney.

Mr Jordan has been a member of the Board since its inception in September 2000. He was Deputy Chair from January 2005, was appointed to the position of Chair in June 2011 and retired from this position in December 2012 following his appointment as Commissioner of Taxation.

Mr Jordan has been an ex officio member of the Board since January 2013.

Chair — Mrs Teresa Dyson (appointed Chair in January 2013)

Mrs Dyson is a taxation partner at Ashurst Australia, advising on direct taxes across a broad range of sectors, particularly resources, infrastructure, financing, corporate and not-for-profit. Mrs Dyson is actively involved in the legal and tax professions and is a member of the Executive of the Law Council

of Australia, Business Law Section, Taxation Subcommittee. She has participated in consultation and development of new laws and the administration of new laws through National Tax Liaison Group and Subgroup representation, was a member of the former Resource Taxes Implementation Group and a member of the Business Tax Working Group. Mrs Dyson is a member of the Audit & Risk Committee of Lifeline Australia. Previously she was also a member of the Board and Audit & Risk Management Committee of the SEQ Water Grid Manager.

Mrs Dyson was appointed to the Board in May 2011 and appointed to the position of Chair in January 2013.

Mr Keith James (Deputy Chair)

Mr James is a Partner at Hall & Wilcox Lawyers. He is a key figure in the tax advisory profession. His involvement has extended to Chair of the Public Accountants Committee, Victorian President and National Councillor and Chair 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 Chair 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 was appointed to the Board in March 2004 and appointed to the position of Deputy Chair in June 2011.

Ms Annabelle Chaplain (retired June 2013)

Ms Chaplain is an experienced company director and currently serves as a non-executive director of Downer EDi Ltd.

Ms Chaplain has spent her executive career in the field of international banking and finance, holding management positions as Head of Public Sector Client Management at ABN AMRO for Australia and New Zealand, ABN AMRO's Divisional Director for Queensland, and Director Corporate and Project Finance at AIDC Limited.

Ms Chaplain was appointed to the Board in July 2009, until her retirement in June 2013.

Mr Michael D'Ascenzo AO (retired December 2012)

Mr D'Ascenzo holds degrees in economics and law from the Australian National University and is admitted to practice as a barrister and solicitor. Mr D'Ascenzo is a graduate of Harvard Business School Program for Management Development; a member of the Australian Institute of Chartered Accountants; an Honorary Life Member of the Australian Society of Certified Practising Accountants; and an Honorary Fellow of the Association of Taxation and Management Accountants.

Mr D'Ascenzo is recognised internationally for his expertise in taxation and superannuation, and his demonstrated ability as a leader and innovator. He has worked with the International Monetary Fund; he was involved in the work of the Study Group on Asian Tax Administration and Research, for which he was Secretary General in 2005; and he was the vice Chair of the OECD's Forum on Tax Administration.

He has been a member of various public and private sector committees, such as the Board of Taxation.

In 2003 the Australian National University included Mr D'Ascenzo among its distinguished alumni. In 2008 he was awarded the Hill ATTA Medal by the Australasian Tax Teachers Association and in 2010 he received the International Tax Review Asia Editor's Choice award. In 2010 Mr D'Ascenzo was appointed an Officer of the Order of Australia for service to public administration, particularly through reform and innovative engagement with the taxation profession and other government agencies.

Mr D'Ascenzo was appointed to the position of Commissioner of Taxation and Registrar of the Australian Business Register from January 2006 until December 2012. Prior to that he was appointed Second Commissioner of Taxation in 1998 and reappointed in 2005.

Mr D'Ascenzo has been an ex officio member of the Board from January 2006 until his retirement in December 2012.

Mr John Emerson AM

Mr Emerson is a consultant at Herbert Smith Freehills, lawyers, 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 firm's Melbourne Office Pro Bono Partner and a member of a number of legal, academic, and public sector committees active in the charity tax and pro bono areas.

Mr Emerson has been a member of the Board since January 2007.

Ms Elizabeth Jameson

Ms Jameson is a corporate/commercial lawyer by background. After 15 years in legal practice, in 2002 she established Board Matters Pty Ltd, a corporate governance consultancy and associated legal practice, Board Matters Legal. Today Ms Jameson's time is divided between her consulting work through Board Matters and a number of non-executive Directorships. She has held many board positions over the past two decades. These currently include directorships with BDO Group Holdings (Qld) Pty Ltd (as Chair), RACQ Ltd, FibreCycle Pty Ltd (as Chair until November 2012), Brisbane Girls' Grammar School (as Chair) and is a member of the Board of Queensland Theatre Company (since May 2013).

Ms Jameson is also a member of the Queensland Law Society and fellow of the Australian Institute of Company Directors.

Ms Jameson was appointed to the Board in April 2010.

Dr Martin Parkinson PSM

Dr Martin Parkinson was appointed as Secretary to the Treasury in March 2011.

As Secretary, he is a member of the Board of the Reserve Bank of Australia, Chair of the Advisory Board of the Australian Office of Financial Management and a member of the Australia in the Asian Century Strategic Advisory Board, Infrastructure Australia, the Council of Financial Regulators, the Board of Taxation, the Sir Roland Wilson Foundation and the Centre for International Finance and Regulation.

Dr Parkinson was the Secretary of the Department of Climate Change from its establishment in December 2007, and headed up the Climate Change Group in the Department of the Prime Minister and Cabinet earlier in 2007.

Between 2001 and 2006, Dr Parkinson was Deputy Secretary in Treasury with responsibility for domestic and international macroeconomic issues, including serving as co-chair of the G-20 Deputies process in 2006.

He holds a Ph.D from Princeton University, a M.Ec from the Australian National University and a B.Ec (Hons) from the University of Adelaide.

Dr Parkinson has been an ex officio member of the Board since March 2011.

Mr Peter Quiggin PSM

Mr Quiggin is the First Parliamentary Counsel of the Office of Parliamentary Counsel (OPC), which is responsible for drafting all principal legislation, all regulations and a range of legislative instruments for the Australian Government, including taxation legislation. OPC is also responsible for the publication of Commonwealth legislation through ComLaw and the Federal Register of Legislative Instruments (FRLI).

Mr Quiggin's initial seven year appointment as First Parliamentary Counsel started on 13 May 2004. He has since been reappointed for a further seven years, commencing on 14 May 2011. He has been a drafter with the Office of Parliamentary Counsel for over 20 years and has drafted legislation covering a wide range of topics including taxation, native title and immigration.

Mr Quiggin is the President of the Commonwealth Association of Legislative Counsel (CALC).

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 an ex officio member of the Board since January 2004.

Mr Curt Rendall

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

Mr Rendall is currently a member of the Standard Business Reporting Board and was previously a member of the Trade Practices Act Review (the Dawson Review), Chair of the Federal Government's Small Business Consultative Committee, Deputy Chair of the New Tax System Advisory Board and an Associate Commissioner of the Productivity Commission. He has also been Chair 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.

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

Secretary to the Board of Taxation

Mr Roger Paul

Prior to his appointment as Secretary to the Board of Taxation in June 2011, Mr Paul was a Principal Adviser in the Business Tax Division of the Treasury.

Mr Paul has worked extensively in the corporate tax field and was a member of the Secretariat to the Ralph Review of Business Taxation. His experience includes leadership roles in the development of tax policy and legislation on debt/equity hybrids, foreign currency denominated financial instruments and derivatives. He has been a frequent speaker at seminars on these topics.

Reporting to the OECD Committee on Fiscal Affairs, Mr Paul was Chair of the Special Sessions on Innovative Financial Transactions and has been a presenter in OECD forums on the taxation of financial markets in the Asia-Pacific region.

He has co-authored course materials for a post-graduate corporate finance tax course, and has taught tax law on a part-time basis.

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 Chair will be appointed by the Treasurer from among these members of the Board. If the Treasurer decides to appoint a Deputy Chair, he or she will also be appointed from among these members of the Board. Members may be re-appointed.

The Secretary 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 Chair 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 annual 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, 2012-13

Member	Number of meetings eligible to attend	Number of meetings attended
Mr Jordan (Chair) ^(a)	10	10
Mrs Dyson (Chair)	10	10
Mr James (Deputy Chair)	10	10
Ms Chaplain	10	8
Mr Emerson	10	10
Ms Jameson	10	9
Mr Rendall	10	10
Mr D'Ascenzo ^(a)	5	5
Dr Parkinson ^(a)	10	10
Mr Quiggin ^(a)	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, 2012-13

Post-implementation review into certain aspects of the consolidation tax cost setting process	Review of the tax arrangements applying to permanent establishments	Post-implementation review of Division 7A of Part III of the <i>Income Tax Assessment Act 1936</i>
Mr James (Chair)	Ms Chaplain (Chair)	Mr Rendall (Chair)
Mr Jordan (until December 2012)	Mr Jordan (until December 2012)	Mr James
Mrs Dyson	Mrs Dyson	Ms Jameson
Mr Rendall	Mr Emerson	
Review of the debt and equity tax rules	Review of thin capitalisation arm's length test	
Mrs Dyson (Chair)	Ms Jameson (Chair)	
Mr Emerson	Mrs Dyson	
	Mr James	

APPENDIX E: CONSULTATION BY THE BOARD

Table 4: Speeches and presentations, 2012-13

Date	Presentation	Event	Member
16 August 2012	Board of Taxation update	The Treasury	Mr Jordan
16-17 August 2012	Division 7A Post-Implementation Review	National Tax Intensive Retreat in Noosa	Mr Rendall
22 October 2012	Division 7A Post-Implementation Review	Australian Tax Practitioners Forum, small and medium enterprises working group	Mr James
13 February 2013	Panel discussion member on technical capability	ATO Parramatta technical conference	Mr Rendall
February & April 2013	Board of Taxation update	CCH Heads of Tax meetings in Melbourne, Sydney and Brisbane	Mrs Dyson
26 & 27 April 2013	Division 7A Post-Implementation Review	2013 Private Business Tax Retreat	Mr James
June 2013	Board's report on Consolidations, the review of debt and equity tax rules and the review of thin capitalisation arm's length test	Tax Institute's in-house tax manager's conference	Mrs Dyson

Table 5: Meetings with external organisations, 2011-12

Date	Attendees
20 July 2012 (Brisbane) 2 August 2012 (Melbourne) 3 August 2012 (Sydney) 12 September 2012 (Perth) Targeted consultation meetings to discuss post-implementation review of Division 7A	Mr Rendall, Mr James, Ms Jameson, Board of Taxation Secretariat and stakeholder representatives
10 August 2012 Board of Taxation meeting, Sydney	Assistant Treasurer, the Hon David Bradbury MP and Sydney-based members of the Board's Advisory Panel
29 August 2012 (Sydney), 4 September 2012 (Sydney) & 6 September 2012 (Melbourne) Targeted consultation meetings to discuss review of tax arrangements applying to permanent establishments	Ms Chaplain, Mr Jordan, Mrs Dyson, Mr Emerson, Board of Taxation Secretariat and stakeholder representatives
12 & 13 September 2012 Board of Taxation meeting, Perth	Perth-based members of the Board's Advisory Panel, Small and large business representatives, mining and association representatives, tax practitioners
24 September 2012 (Sydney) 2 October 2012 (Melbourne) 15 October 2012 (Melbourne) Targeted consultation meetings to discuss the post-implementation review of certain aspects of the consolidation tax cot setting process.	Mr James, Mr Jordan, Mrs Dyson, Mr Rendall, Board of Taxation Secretariat and stakeholder representatives
8 March 2013 Board of Taxation meeting, Canberra	Office of Parliamentary Counsel staff
12 March 2013 Discuss work of the Board of Taxation, Canberra	Assistant Treasurer, the Hon David Bradbury MP, Mrs Dyson, Mr James and the Secretary to the Board of Taxation
12 March 2013 Discuss work of the Board of Taxation, Canberra	Mr Mark Brennan (Small Business Commissioner), Mrs Dyson, Mr James and the Secretary to the Board of Taxation
21 March 2013 Discuss work of the Board of Taxation, Sydney	Mr Ali Noroozi (Inspector General of Taxation), Mrs Dyson, Mr James and the Secretary to the Board of Taxation
12 April 2013 Board of Taxation meeting, Sydney	The Assistant Treasurer, the Hon David Bradbury MP Sydney-based members of the Board's Advisory Panel
30 April 2013 Discuss work of the Board of Taxation, Sydney	Assistant Treasurer, the Hon David Bradbury MP, Mrs Dyson and the Secretary to the Board of Taxation

Date	Attendees
17 May 2013 Board of Taxation meeting, Canberra	Officials from The Treasury
14 June 2013 Board of Taxation meeting, Brisbane	Brisbane-based members of the Board's Advisory Panel

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 2012-13, the Board engaged five consultancies for an amount over \$10,000, for a total value of \$189,242 (GST inclusive). The actual expenditure for these consultancies, consultancies completed in 2012-13 and for payments made to service providers in 2012-13, was \$164,166 (GST exclusive).

APPENDIX G: FINANCIAL STATEMENTS

Table 7: Revenue, expenses and operating result

	2011-12	2012-13
	\$	\$
Revenue		
Funding from Government	1,770,000	1,726,000
Services provided free of charge	131,400	171,509
Revenue — Other		
Total revenue	1,901,400	1,897,509
Expenses		
<i>Employee expenses^(a)</i>		
Wages	475,446	460,362
Superannuation	109,813	116,819
Other employee expenses	499,759	441,672
Total employee expenses	1,085,018	1,018,853
<i>Other expenses</i>		
Travel	209,410	249,445
Conferences and training	25,068	9,697
Consultants and services provided by Contractors	134,716	164,166
Seconded Employees	270,473	335,709
Legal Services	0	0
Office supplies	2,502	789
Printing	0	0
Publications and subscriptions	6,773	3,869
Other supplier expenses	592	6,928
Total operating expenses	650,233	770,603
Total expenses	1,735,251	1,789,456
Operating surplus	166,149	108,053

(a) Of total employee expenses of \$1,018,853 in 2012-13, \$596,484 was attributed to the Secretariat. The 2012-13 average staffing level of the Secretariat was 3.9. The balance of \$422,369 comprises payments to non-Government members of the Board.

Table 8: Salary paid to non-government Board members, 2012-13

Member	\$
Mrs Dyson (Chair from January 2013)	\$82,431
Mr Jordan (retired as Chair December 2013)	\$59,483
Mr James	\$56,091
Mr Emerson	\$56,091
Ms Jameson	\$56,091
Mr Rendall	\$56,091
Ms Chaplain	\$56,091
Total	422,369

APPENDIX H: MEMBERS OF THE BOARD'S ADVISORY PANEL

Table 9: Members of Advisory Panel as at 30 June 2013

Panel Member:	Position, Organisation:
Ms Jennifer Batrouney SC	Barrister
Mr Steve Baxter	Associate Director, Indirect Tax Consulting Group
Ms Sarah Bernhardt	Partner, Allens
Mr Stuart Cameron	General Manager Taxation, Suncorp Group Ltd
Mr Alf Capito	Partner, Ernst & Young
Mr Michael Clough	Partner, King & Wood Mallesons
Mr John Condon	Regional Tax Manager — Australia & New Zealand, BP Australia
Mr Stewart Cummins	Chief Financial Officer, Transpacific Industries Group Ltd
Mr Michael Evans	Chartered Accountant
Mr Mark Friezer	Partner, Clayton Utz
Mr Peter Godber	Partner, Grant Thornton
Mr Mark Goldsmith	Partner, Deloitte
Mr Michael Hay	Partner/Executive Director, Pitcher Partners
Mr Greg Hayes	Senior Partner, Hayes Knight
Mr Stephen Healey	Partner, Deloitte
Mr Michael Hennessey	Partner, Ernst & Young
Mr Paul Hooper	Group Head of Tax, Lend Lease
Mr Michael Johnston	Chief Financial Officer, Consolidated Press Holdings Ltd
Mr Alexis Kokkinos	Executive Director, Pitcher Partners Advisors
Mr Adam Levin	Partner, Jackson McDonald Lawyers
Mr Larry Magid	Partner, Allens
Ms Louise McBride	Barrister

Appendix H: Members of the Board's Advisory Panel

Panel Member:	Position, Organisation:
Ms Anthea Mckinnell	Taxation Manager, Woodside Energy Ltd
Mr Andrew Mills	Director, Greenwoods & Freehills
Mr Mark Molesworth	Partner, BDO Australia
Professor Ann O'Connell	Co-Director Tax Group, Melbourne Law School
Mr Frank O'Loughlin	Barrister
Ms Katrina Parkyn	Partner, Allens Linklaters
Mr Trevor Pascall	Partner, KPMG
Ms Karen Payne	Partner, Minter Ellison
Professor Dale Pinto	Professor of Taxation Law, Curtin Law School, Curtin University
Mr Anthony Portas	Head of tax, Asia Pacific, Anglo American Metallurgical Coal Pty Ltd
Mr Tony Principe	Group Manager, Taxation, Origin Energy
Ms Anne Richardson	Group Tax Manager, Asciano Ltd
Mr Richard Richards	Deputy Chief Financial Officer, Downer EDI
Mr Ken Schurgott	Director, Schurgott Noolan Lawyers
Mr Hayden Scott	Partner, PricewaterhouseCoopers
Mr Jeff Shaw	Senior Manager, National Australia Bank Ltd
Mr Ken Spence	Special Counsel, Greenwoods & Freehills
Ms Judy Sullivan	Partner, PricewaterhouseCoopers
Mr Paul Suppree	Vice President, Tax, BHP Billiton
Mr William Thompson	Managing Partner, Brisbane, Minter Ellison
Ms Coralie Trotter	Business Tax Manager, Shell Development (Australia) Pty Ltd
Mr Grant Wardell Johnson	Partner, KPMG
Mr Mark West	Partner, McCullough Robertson
Mr Steve Westaway	Partner, Grant Thornton
Mr Ken Woo	Partner, PricewaterhouseCoopers
Mr Craig Yaxley	Partner, KPMG