Tax reform: A better way
The Case for an Australian Tax Reform Commission
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Australia’s tax system is a key determinant of Australia’s success as a nation and a society. It is a failing system in urgent need of change that – under the current approach to reform – is unlikely to come. We need a better institutional response and a new process to manage and implement tax reform in Australia.

In a competitive world our tax system is not good enough. It fails to support our home grown businesses, fails to make Australia attractive to foreign investment and is beholden to the short-term needs of the electoral cycle.

Without change we face years of budget deficits.

At a practical level the tax system also needs urgent repair and maintenance just to ensure that it remains fit for purpose. However, comprehensive institutional reform is required to address the tax system’s entrenched problems.

There are constant calls for tax reform from across the community. These calls focus on the “destination” of tax reform. Inadequate attention is focused on the “pathway” to achieve that reform. This paper seeks to address that omission.

Our recommendations have been informed by lessons from Australia’s history of tax reform. Some of the key lessons are:

- **A long gestation period for tax reform is useful** – This suggests there is a place for regular long-term strategic reviews of the tax system where all options are considered but no immediate implementation expectation is present.

- **Crises can sometimes be a catalyst for implementation but surprise announcements may fail** – This supports the need for not only regular long-term strategic reviews but also robust consultation in respect of specific reform packages.

- **Long-term strategic reviews and consultation processes for current reform proposals play different roles** – This implies that long-term strategic reviews should be performed by and released publicly by a body separate from the operational arms of government.

- **Bundling reforms into packages helps, provided the identification of the winners and losers is credible** – This implies the need for a body independent to the operational arm of government to help give credibility to this process without removing ultimate government decision making authority.

- **The tax system needs constant repair and maintenance** – A regular and agreed process to gather minor changes and legislate them by a set date, in an omnibus bill, would add structure and timeliness to the process of reforming and updating the tax system.

- **Responsibility and accountability for tax policy and reform needs to be clearer** – This suggests the need for a new body to bring critical processes under the one roof.
EY recommends that the Government establish an Australian Tax Reform Commission as its independent research and advisory body on tax reform

Recommendations

1 That the Government establish an Australian Tax Reform Commission as the Government’s independent research and advisory body on tax reform. The Commission should be a statutory authority under its own Act, following the models of the Australian Law Reform Commission1 and the Productivity Commission2. It would take over some responsibilities currently performed by The Board of Tax, Treasury and the Australian Taxation Office without impingeing on the Government or ATO’s ultimate decision making authority.

2 That the Australian Tax Reform Commission be made responsible and accountable for four separate but complementary outcomes.

- The first outcome involves regular scheduled whole of tax system strategic reviews. These reviews should not be dependent upon specific requests from Government, but carried out every five to seven years. They should focus on the broad long-term strategic policy reform agenda rather than short-term specific reform packages. The results of the review should be made public.

- The second outcome involves a two stage specific tax reform package consultation process. These should be performed only at the direction of Government. The first stage should focus on consultation about the relevant policy issues. The second stage should focus on the form of the legislation and other implementation issues once the policy direction has been settled. The Commission would provide advice to government following these consultation and review processes.

- The third outcome involves yearly tax reform maintenance reviews and consultation. The Commission would provide advice to government each year regarding an annual omnibus tax technical corrections bill.

- The fourth outcome involves post implementation reviews of legislation and regulations. The success of the legislation in meeting the original policy intent should be assessed with any errors or unintended consequences addressed in a timely way through inclusion in the next omnibus tax technical corrections bill or after further policy consultation.

3 That the Government encourage the States to participate in the establishment and activities of the Australian Tax Reform Commission.

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Australia’s tax system is failing. Our system is not raising sufficient revenue. An ageing population coupled with mounting government expenditures will continue without reform, to push the budget into deficit for many years to come.

With our personal and company tax rates well above the OECD average our tax system is internationally uncompetitive – inhibiting rather than supporting growth of domestic businesses. Furthermore, Australia’s tax framework is static; unable to keep pace with changing economic dynamics. In conjunction with this, processes and rules for managing change are overly complicated and largely inefficient.

Tax reform is challenging because of the political, economic and social minefield through which any tax reform must tread. Australia’s current architecture for delivering tax reform is demonstrably deficient in meeting that challenge. Major tax changes have failed in recent years, while reforms of vital import to Australia’s economic future are “off the table.” Even tax system maintenance required for our tax system to operate as intended is lagging and failing.

The longer tax reform remains stalled, the louder, more frequent and more urgent the calls for reform. However most of these calls focus only on the “destination” of tax reform. The “pathway” for reform receives little consideration. This paper aims to rectify that omission. It recommends institutional and process changes that are urgently required to achieve ongoing sustainable tax reform outcomes. The changes would create new norms for regular reform; improve information flow and consultation; and cement responsibility and accountability for tax reform.

This paper is broken into four sections:
1. Section 2 discusses the need for tax reform in Australia and summarises some of the challenges to be addressed.
2. Section 3 surveys some of the stakeholders that play a part in tax reform and asks why the tax reform process is broken.
3. Section 4 reviews a selective history of tax reform in Australia and sets out some lessons from that history.
4. Section 5 sets out our recommendations about institutional and process changes that – if adopted – would significantly improve tax reform outcomes.
The success of a nation depends on many things – the natural resources with which it is endowed, the productivity of its people, the system of law by which it is governed and the relationships it has with its neighbours and the international community. Interwoven with each of these is the design of its tax system.

If the tax system is trim and taut, the private and public institutions of a nation will be more effective and more vital. If the tax system is ragged and sclerotic, both suffer.

**Determinants of a successful tax system**

In addition to raising sufficient revenue an optimal tax system must be efficient, equitable, cheap to comply with and easy to understand. Furthermore, in order to balance these competing attributes, a tax system must also be dynamic.

Change is the one constant which is guaranteed. Governments change as do the policy areas which they wish to influence. Revenue required by governments change. Businesses change how and where they operate. Consumers change how they consume. Some of this change is itself driven by a tax system. As a tax system is the connecting thread within a fluctuating economy, it too must also constantly change.

“Australia’s economy and society have changed fundamentally over the past sixty to seventy years. Our tax system has not changed with them.”

* A New Tax System (1998)³

Therefore of greatest importance, a tax system must be flexible, responsive, easy to implement and politically sustainable.

**Reason for reform – problems in Australia’s tax system**

Australia’s tax system is widely agreed to be wanting in meeting the criteria of a successful tax system. Australia’s current tax system is a “burning platform”. While it may support us now, without action it will soon fail.

If the tax system is trim and taut, the private and public institutions of a nation will be more effective and more vital. If the tax system is ragged and sclerotic, both suffer.

There are four compelling realities demanding that Australia change its current tax system: forecast long-term budget deficits; declining international competitiveness; growing systematic impracticalities; and a decreasing ability to effectively respond to and implement change.

First, without reform of the tax system, the Government faces persistent and ultimately unsustainable budget deficits.

A driving factor behind these deficits is our aging population. As the population ages, a greater proportion will be “out of the workforce”. In turn, they will make greater claims on the retirement and health care budgets but contribute less to government tax revenue. The Government announced measures in the 2014-15 Budget to rein in these deficits. However it is not clear whether these will be successfully implemented.

In addition to this the Australian tax system leans to a great extent on personal income tax, company tax, and a goods and services tax that excludes many fast-growing categories of expenditure. This narrow tax base means the tax burden is borne heavily by some sectors but not by others. It also leads to volatile revenue. This is an increasingly sharp issue given that prior to the 2014-15 Budget, the Commonwealth projected budget deficits until 2023-24 in the absence of reform.

Chart 1: Fiscal Position 1990-91 to 2023-24

“Without policy change, the budget is projected to be in an underlying cash deficit for the next 10 years. If this situation came to pass, it would mean that the budget would be in deficit for 16 consecutive years, substantially longer than the 7 years of deficits in the early 1990s.”

Treasury Secretary Martin Parkinson, Address to the Sydney Institute, April 2014


Second, with the ongoing globalisation of the world economy, Australia’s tax system is failing to support the international competitiveness of Australian business. Tax is an important part of the cost structure (and so competitiveness) of business. Tax is also a key factor that international business (whether Australian based or foreign) will take into account when choosing where to operate and invest.

Australian rates of income tax are increasingly uncompetitive. Personal income tax rates rise higher sooner than many countries in which a global workforce can choose to live. Australia’s company tax rate was well below the OECD average in 2001 but is now well above it.

Australia has a relatively low rate of indirect taxation. In 2014, the OECD reiterated its call for Australia to lower taxes on labour and capital, in favour of indirect taxes such as consumption taxes and land taxes.

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**Chart 2: Corporate Tax Rate Comparison**

*Consumption taxes include value-added taxes, goods and services taxes, and broad-based sales taxes. Rates are generally the standard rates applicable. The rates expressed for corporate income taxes represent effective tax rates on corporate income and may incorporate income taxes, as well as other income-based taxes, such as trade taxes or surtaxes.*

**Given the impact of tax rates set by local municipalities or regions, the effective tax rate varies depending on the location of the enterprise.**


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**Chart 3: An overview of major consumption taxes and corporate taxes**

<table>
<thead>
<tr>
<th>Country</th>
<th>Consumption Tax 10.0%–14.0%</th>
<th>Consumption Tax 15.0%–19.6%</th>
<th>Consumption Tax 20.0%–22.0%</th>
</tr>
</thead>
<tbody>
<tr>
<td>United States</td>
<td>11.7</td>
<td>19.0</td>
<td>28.0</td>
</tr>
<tr>
<td>South Africa</td>
<td>36.0</td>
<td>48.0</td>
<td>54.0</td>
</tr>
<tr>
<td>Mexico</td>
<td>12.8</td>
<td>29.0</td>
<td>25.0</td>
</tr>
<tr>
<td>China</td>
<td>25.0</td>
<td>29.0</td>
<td>27.0</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>10.0</td>
<td>18.0</td>
<td>18.0</td>
</tr>
<tr>
<td>France*</td>
<td>19.6</td>
<td>27.5</td>
<td>27.5</td>
</tr>
<tr>
<td>Portugal*</td>
<td>21.0</td>
<td>27.5</td>
<td>27.5</td>
</tr>
<tr>
<td>Spain*</td>
<td>19.0</td>
<td>27.5</td>
<td>27.5</td>
</tr>
<tr>
<td>Italy*</td>
<td>22.0</td>
<td>27.5</td>
<td>27.5</td>
</tr>
<tr>
<td>Denmark*</td>
<td>26.0</td>
<td>27.5</td>
<td>27.5</td>
</tr>
<tr>
<td>Korea*</td>
<td>18.0</td>
<td>27.5</td>
<td>27.5</td>
</tr>
<tr>
<td>Switzerland*</td>
<td>25.0</td>
<td>27.5</td>
<td>27.5</td>
</tr>
<tr>
<td>Turkey*</td>
<td>18.0</td>
<td>27.5</td>
<td>27.5</td>
</tr>
<tr>
<td>Slovenia*</td>
<td>20.0</td>
<td>27.5</td>
<td>27.5</td>
</tr>
</tbody>
</table>

*OECD Corporate and Capital Income Taxes Database, 2007, OECD*
If Australian business is to be globally competitive and if foreign businesses are to be attracted to Australia the Australian tax system must also be globally competitive. Improved tax policy settings could improve the productive and allocative efficiency of the Australian economy. Productivity performance determines the economic well-being of Australians in the long run, and recent productivity performance has been lagging.

Case study 1: The GST: Tax reform focused on raising revenue

The campaign for an Australian Goods and Services Tax can be traced back to the 1970s. European countries had gradually introduced value-added taxes (VATs) during the 1960s and 1970s to replace inferior business taxes. The 1975 Asprey review proposed adopting such a tax to replace the wholesale sales tax. The recommendations of the Asprey Report were initially largely ignored by government. However they were very influential in shaping the ongoing tax reform debate.

A comprehensive Goods and Services Tax was a key subject of debate at the 1985 tax summit, and a reform favoured by then Treasurer Paul Keating – his famous “Option C”. That tax summit sparked the introduction of many major reforms – not least taxation of capital gains – but the GST was not among them.

Mr. Keating became an opponent of the GST after he became Prime Minister in 1991. His 1993 election campaign ensured a proposal for a comprehensive GST at a 15 per cent rate – as proposed by Coalition leader John Hewson in his “Fightback!” economic policy package – was defeated.

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Third, Australia’s tax system has a single major impracticality. Vertical fiscal imbalances exist between the State and Federal Governments. States have significant spending commitments but limited direct revenue streams.

The introduction of the GST was a step toward addressing this issue. However not all of the expected reforms of inefficient State taxes that were expected to occur with the introduction of the GST have occurred. Further, due to the design of the GST reform is difficult due to the intertwined Federal and State involvement with this tax.

“Even if, as is not the case, the Australian system were generally agreed to be as satisfactory as any tax system is ever admitted to be, a periodic thorough inspection would be as wise a precaution in this area of affairs as in any other.”

Asprey Review, 1975

Lastly, Australia’s tax system is unresponsive. It has failed to react sufficiently quickly to recent developments in the domestic and international context. The law itself is a tangle. Thousands of pages of applicable rules interact and complicate, muddying the job of the tax system’s administrators and inhibiting their ability to simplify. The process of repairing mistakes and correcting the inevitable unintended consequences of the tax system appears gummed up. At the end of 2013 there was a backlog of 92 announced reforms that were yet to be legislated. Many other needed amendments to tax law are also in an ambiguous limbo.

Case study 1: The GST: Tax reform focused on raising revenue (continued)

By the time Prime Minister John Howard adopted a GST as an election commitment in 1998 during his first term, the GST was a familiar feature of the tax reform debate.

The avowed objective of introducing the “New Tax System” that included the GST was to make Australia’s tax system “fairer,” “sounder” and “easier.”

Public support for the introduction of a new tax was not overwhelming, but by bundling it with a range of tax changes that returned money to voters, especially by a pledge to cut personal tax collection by 14 per cent, the tax was able to survive.

The tax package that included the GST also abolished a range of small or inefficient Commonwealth and State taxes such as wholesale sales tax and bed tax. The package contained fringe benefit tax amendments and a luxury car tax.

The process of getting GST legislation through parliament was almost its undoing. The tax had to pass a Senate in which the Australian Democrats held the balance of power. Leader of the Democrats Meg Lees and Prime Minister John Howard negotiated the tax down to the fine details. Exemptions on food and other essential items were sufficient to win support for the tax.
In Australia tax reform has occurred in a somewhat disorganised way

Australia’s path to reform is lost

The tax system in Australia has evolved over many years. It is the result of Australia’s unique political system and the institutions and processes that have developed over time to deal with tax matters.

Tax reform is the process by which the tax system changes. It is the critical subset of tax policy because tax policy is not only about tax law and practice as it is and as it should be, but it is also about the way in which changes to tax law and practice are achieved and should be achieved.

In Australia tax reform has occurred in a somewhat disorganised way. There have been great bursts of activity followed by years of neglect. There have been grand “root and branch” reviews followed by little in the way of implemented reform. There have been sweeping new tax rules introduced only to be repealed soon after. There have been new tax laws announced but no legislation introduced until years later.

The path to reform – if there ever was one – is lost. Where political consensus is needed none exists. State Government incentives are not aligned with the Commonwealth. Agreements fail. Premiers pull in the opposite direction to the Federal Treasurer and Prime Minister.

The debate is crowded with actors calling for a tax regime they believe serves their interests best. There is no shortage of potential “road maps” for tax reform. But while arguments rage over where we should be heading, nobody mentions that the engine of reform has seized up and progress has halted.

Recent attempts at tax reform, such as the minerals resource rent tax and carbon “tax”, have been so unsuccessful that governments may fear to once more enter the space. Nearly 30 years later little has changed in the way tax reform is managed. Now is the time for a rethink of the way tax reform occurs in Australia.

Australia needs a better institutional response and a new process to manage and implement tax reform.

Case study 1: The GST: Tax reform focused on raising revenue (continued)

The GST can be considered a successful reform according to the criteria described above. It has achieved its own objectives – permitting a continually lower rate of personal income tax and raising a growing amount of revenue. The GST has become a core part of the tax system with support that is not just bipartisan but now comes from all parties.

A campaign by Federal Labor for “rollback” of the tax was abandoned after one election.

There is very little agitation for the removal of the GST and a more recent campaign has called for extension of the GST to online imports worth less than $1000. Some in the community are also calling for broader GST reform to either increase the rate and/or to eliminate some of the exemptions that were included at the time of its introduction.

The implementation of the GST was relatively smooth, with no major amendments to the policy intent. Subsequent amendments have been generally minor. They include for example, changes to the administration of the tax, clarifying distinctions between taxable prepared food and untaxed food.

Key Messages

- The tax reform landscape is crowded with players. When these players build consensus it sends a clear signal to government and the community about much needed reform.

- Political support must exist if tax reform is to be sustainable. But it is often in the interests of an opposition party to oppose any government tax reform regardless of its merits.

- Within government there are many institutions, bodies and committees with a stake in tax reform. These bodies themselves have recognised the need for change.

- Tax reform outcomes would be improved if better processes and clearer responsibilities were established.

The tax reform landscape is crowded with players who have a significant influence on tax reform. These include:

- The Business Council of Australia, representing companies with a total market capitalisation of over $1 trillion.

- The Council of Small Business of Australia, which represents small business, which make up 96 per cent of all businesses in Australia.

- The Australian Council of Trade Unions, which represents 2 million workers.

- The Australian Council of Social Services – the peak body for thousands of community agencies.

- The Australian Greens and other minor parties, which garner millions of votes at every election and can be influential.

- Other sectoral bodies which can be very powerful on certain issues.

- Local and global academic and interest groups such as the Tax Institute, Taxpayers Australia, Tax and Transfer Policy Institute and the Organisation for Economic Cooperation and Development can also be influential in the tax debate.

How these players interact can determine whether a reform soars or plummets. Consensus builds a clear signal to government and the community about much needed reform. But too often in the past the interaction has merely created noise.

The major political parties, as well as being the target of lobbying and acting as clearing houses for acceptable reforms, are themselves incubators of reform plans and ideas. Their influence is strongest when they command significant majorities in the polls, or in parliament, or when they control both houses of parliament. But any political party that proposes tax reform can face a version of the “prisoner’s dilemma”.

“If one party seeks to implement electorally difficult tax reform but the other decides to condemn that reform along populist lines generally the reforming party will suffer predictable electoral anguish and the opposing party will obtain a corresponding fillip in the polls.”

Case study 2: Tax reform focused on changing behaviour
The Superannuation reforms
The introduction of tax deductible compulsory superannuation contributions by employers occurred in 1992. This requirement was overlaid on the concessional tax rate of 15% on contributions to and earnings of a superannuation fund. But the history of superannuation itself is much longer.

Superannuation was a feature of some compensation arrangements as early as the mid-19th century, and by the 1980s it had become relatively widespread, with 40 per cent of employees benefiting from superannuation in 1986.

A goal of the policy reform in 1992 was to improve Australians’ retirement incomes. The issue was believed to be important given the ageing population and projected increased cost of the pension.

A superannuation reform proposal gained momentum from the fact superannuation was seen as a highly desirable working condition – available to some workers but not all. The Australian Council of Trade Unions was instrumental in advocating for superannuation, encouraging it as a provision in awards in the period before the superannuation reform was introduced.

Tax reform inevitably involves winners and losers. It is often therefore in the interests of an opposition party to oppose any government tax reform on popularist lines by aligning themselves with the losers. With the recent proliferation of minor parties and the need to command a majority in the Senate, the landscape for executing tax reform is further complicated inside parliament as well as outside.

Within government there is a patchwork of bodies that are involved in the tax system and its governance. Some of these bodies are set out in the table below.

Table 1. Government Entities involved in Tax Law Administration and Reform.

<table>
<thead>
<tr>
<th>Departments, and parliamentary bodies</th>
<th>Revenue Agencies and Authorities</th>
<th>Tax review bodies (enduring)</th>
<th>Tax review bodies (recent special focus reviews)</th>
<th>Other government review bodies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Department of Treasury – Revenue Group</td>
<td>Australian Taxation Office (Commissioner of Taxation)</td>
<td>Board of Taxation</td>
<td>Tax Design Review Panel 2007-8</td>
<td>Productivity Commission</td>
</tr>
<tr>
<td>House of Representatives Standing Committee on Tax and Revenue (established on 14 November 2013)</td>
<td>Australian Customs and Border Protection Service</td>
<td>Tax System Committee(^\text{13}) – Treasury and ATO with 3 private sector members</td>
<td>Business Tax Working Group 2011-12</td>
<td>Australian National Audit Office</td>
</tr>
<tr>
<td>Senate Standing Committees on Economics</td>
<td>Tax Practitioners Board</td>
<td>Inspector General of Taxation – reviewing ATO administration</td>
<td>NFP Tax Concession Working Group 2012-13</td>
<td>Australian Law Reform Commission whose reviews may affect tax reform</td>
</tr>
<tr>
<td>Parliamentary Joint Committee on Public Accounts and Audit</td>
<td>Project Wickenby(^\text{14}) multi agency project</td>
<td>Commonwealth Ombudsman – to provide taxpayer redress for ATO administration</td>
<td></td>
<td>Australian Public Service Commission</td>
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<tr>
<td>Office of Parliamentary Counsel</td>
<td></td>
<td></td>
<td></td>
<td>National Commission of Audit</td>
</tr>
<tr>
<td>Department of the Prime Minister and Cabinet</td>
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<td></td>
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</tr>
<tr>
<td>Department of Immigration and Border Protection (customs)</td>
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</table>

The diversity of bodies with an interest in tax reform creates both opportunities and challenges. There are great opportunities for sharing and combining diverse views.

There are also many opportunities to fully analyse and understand the implications of potential reforms before they are finalised and implemented. However, these opportunities are being missed.


Tax reform outcomes could be further improved if a more powerful mechanism was found to elicit from interest groups and government entities their views as early and as often as possible.

For example among the range of voices in the tax reform debate, there seem to be important points of overlap and potential consensus.

- Key interest groups hold positions on the appropriate size of government that are similar enough that consensus is plausible. The Business Council of Australia supports holding tax as a share of GDP below 23.7 per cent. The ACTU argues there should be no further cuts to tax as a share of GDP. ACOSS supports increasing the share to 25 per cent.

- Personal income tax is an area where overlapping positions create opportunities for consensus. The ACTU and ACOSS support more progressive tax systems, which could include lower taxes at lower income levels. The focus of the Business Council of Australia is also on lowering personal income taxes, as part of a program of moving the burden away from taxes on mobile factors of production, and toward indirect taxes.

- There is even the possibility of agreement that the rate of the GST could be raised. Major public statements and position papers produced by the ACTU and ACOSS do not oppose a higher rate of GST. The cynical view might be that opposition is unnecessary because that policy change is so unlikely to happen. Nevertheless the lack of a public campaign against a higher GST suggests opportunities for consensus-building remain.

- The Greens support a lower company tax rate for small business – 28 per cent. The BCA supports an across the board company tax cut to at least 25 per cent.

- The Council of Small Business of Australia is focused on the compliance costs of collecting GST, arguing their members are uncompensated tax collectors. This dovetails with BCA concerns about red tape and compliance costs.

But with so many bodies wanting their say challenges arise when trying to manage meaningful and well informed communication. Challenges also exist in simply coordinating the process of reform. These challenges can often prevent sizeable coalitions forming that could agree on a grand bargain to support reform.

Some of these challenges have been acknowledged and some changes have been made by relevant government bodies.

The establishment of the Board of Taxation in 2000 was itself an attempt to better manage the tax reform process. However the Board of Taxation has no legislative basis and no formal independent standing. It has only limited capacity and resources to undertake independent research into necessary tax reform.

The Revenue Group of Federal Treasury provides policy advice and designs legislative proposals to give effect to government decisions to improve the efficiency, fairness and transparency of the Australian tax system while minimising the compliance and administration costs. Tax policy advice is formulated through a process that, at times, includes consultation with business and community bodies, and close cooperation with the Australian Taxation Office and relevant Commonwealth departments.

During 2012-13 the Revenue Group established a Law Design Practice to provide greater focus on the implementation of legislation in the Government’s taxation reform agenda. Treasury has also recently established the Tax System Committee to help better facilitate some of the needed consultation.

This group is to feature quarterly meetings of Treasury, the Taxation Office and private sector members.

The Australian Taxation Office has also recognised the need for a more credible voice in tax law design. It has recently established an Integrated Tax Design Unit that will seek to work closely with Treasury to influence and advocate for law changes.

These changes represent small steps in the direction of better coordination and consultation. Tax reform outcomes could be further improved if a more powerful mechanism was found to elicit from interest groups and government entities their views as early and as often as possible. This is one key reason why we have recommended the establishment of the Australian Tax Reform Commission.

The Commission should use consultation to identify opportunities and risks to tax reform. Consultation should be varied in format, including:

- Requesting public submissions from stakeholders
- Interacting with stakeholders at public forums
- Perhaps accepting secondments from stakeholder institutions to the Commission

Where interest groups are found to be at odds the Commission may choose to host public debates, conferences, summits, tax design competitions or other innovative approaches that could isolate and diminish sources of disagreement.

Where government entities are found to be at odds, the Commission may constitute committees imbued with the delegated power to resolve the issues.

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Section 4 – Ten lessons from history

Key Messages

- Tax reform comes in three types:
  - Policy based reforms focused on revenue raising
  - Policy based reforms focused on behavioural change
  - Amendments to existing rules focused on repair and maintenance
- A review of history can provide useful lessons about how the management of the tax reform process can be improved. We have identified 10 lessons from history to guide improved tax reform.

The history of tax reform in Australia is full of successes and failures.

A study of reforms – from the 1942 consolidation of income tax at the Commonwealth level to fund the Second World War, to 2013’s Tax Base Erosion and Profit Shifting Review – can shine a light on why some tax reform plans come to fruition, others get shelved and still others are implemented but then revamped time and again.

Tax reforms come in three main types:

Policy-based reforms focused on raising revenue
- These reforms are aimed at changing the way tax revenue is collected so a “best” balance is achieved in the often competing criteria of efficiency, equity and simplicity. Examples of such a reform include the Goods and Services Tax, introduced in 2001, and the Capital Gains Tax, introduced in 1985.

Policy-based reforms focused on behavioural change
- These reforms are aimed at changing the behaviour of taxpayers such that some agreed overall community improvement arises. Examples of such changes include the superannuation guarantee introduced in 1992, higher excise rates on “alcopops” introduced in 2008, and the carbon “tax” introduced in 2012.

Amendments to existing tax rules focused on repair and maintenance
- These do not intend to introduce overall policy changes but rather are focused on the correction of previous oversights or unintended consequences in the drafting of existing tax law. Examples of such reform include recent ongoing amendments to the rules relating to the consolidation regime and the taxation of financial arrangements.

A selected history of these three types of tax reform can usefully be examined and their success analysed according to the following criteria:
- Whether the enacted reform met its avowed objective
- The number of post implementation amendments to correct mistakes and unintended consequences
- Whether the reform remains operative for a sustained period of time after implementation

Lessons from Australia’s history of tax reform

The tax reforms described in case studies in this report were chosen to illustrate some of the lessons that can be learned from Australia’s history of tax reform. The lessons include positives for those inclined to contemplation of Australian democracy – good ideas can win out over time.

Each lesson concludes with an application that guides the institutional recommendations of this report, found in the next chapter.

Case study 2: Tax reform focused on changing behaviour (continued)

When the superannuation reform was introduced, the compulsory employer contribution required was 3 per cent of salary, or 4 per cent for firms with a payroll over $1 million.

The policy did not receive bipartisan support. Business groups and Liberal MPs opposed the reform. An agreement between a Labour Government wary of inflation and allied trade unions permitted the policy to proceed.

The ACTU wanted a pay rise for workers, but Prime Minister Paul Keating was keen to avoid a spike in prices. Superannuation allowed both goals to be met – a 3 per cent pay rise would be delivered but it would not be immediately spendable, because it would go into superannuation.

The central policy intent of the Superannuation Guarantee – to increase retirement savings – has been so popular that the rate of contribution has been increased multiple times. By 1996, the employer contribution was 6 per cent, by 2002, it was 9 per cent and in 2013 it increased to 9.25 per cent. An estimated $1.6 trillion is held by Australians in Superannuation. The policy now enjoys cross-party support.

But perceptions of fairness and risks of tax avoidance have sparked change in the detail of the policy. The advantageous taxation treatment of superannuation affects incentives to work and consume, especially as the preservation age approaches. Another key issue has been the potential for stakeholders – advisors and superannuation funds – to profit from the billions invested.
Lesson 1 – A long gestation period for tax reform is useful

A significant “gestation period” can be very helpful in making a reform stick. Deep public interest and lengthy debate characterise successful reform. Reforms introduced “out of thin air” tend not to endure. Reforms that have fought and failed before can in fact be more resilient and eventually successful than reforms that do not have a history – positive or negative – in the electorate.

A significant “gestation period” is useful to outline the potential reforms, to enable discussion and to build public acceptance of reform. The UK Cabinet Office noted the critical significance of using consultation in the early design phase of major reforms, rather than after-the-event:

“... consultation being used primarily as a means to flush out challenges to emerging policies...(after policies have been set)...can undermine public and interest group confidence in policy making. Consultation should be seen by policy makers as part of the gathering of evidence to underpin policy advice ...

...Building effective consultation practices means dealing with the time and cost requirement and developing the relevant skills. Effective consultation cannot be hurried. The more comprehensive the policy being developed, the more extensive the consultation is likely to need to be....

...the formal tool policy makers are expected to use to address the question of how ‘fair’ are the policies they propose is the impact assessment. Our work on good practice revealed a patchy understanding of the importance and role of impact assessment.”

Allowing longer-term strategic reviews to lie in public for consideration before government decisions can be very desirable. Many reforms identified by the 1975 Asprey Review were “on the backburner” before being implemented throughout the 1980s and 1990s.

The importance of giving tax reform proposals long gestation periods suggests a downside to ad hoc reviews with an immediate government response. Frequent, regular, forward-looking strategic reviews of the taxation system may give positive ideas more opportunity to lodge themselves in the public debate.

Application – The tax reform process should allow for time to air ideas for tax reform long before they are urgently needed. This suggests that there is a place for regular long-term strategic reviews of the tax system where all options are considered but no immediate implementation expectation is present.

18 UK Cabinet Office, Professional Policy Making for the Twenty First Century, Strategic Policy Making Team, 1999 (archived at http://www.policy.manchester.ac.uk/resources/civil-servant/skills/).
Lesson 2 – Crises can sometimes be a catalyst for implementation but surprise announcements may fail

Crisis can also be used as a spur to implementation. World War Two saw the Federal Government take control of income tax, and a growing understanding of the challenges of an ageing population has been important to the reform of superannuation.

But a sharp change or crisis may not be sufficient impetus for a successful reform if solutions are a surprise. The Resources Super Profits Tax and Minerals Resources Rent Tax were linked to a sharp rise in the price of commodities for export and a perceived need to “share the benefits” across a “two speed economy”. But the “crisis” was not well explained and the solution appeared to be plucked from nowhere, without much consultation.

Application – While the existence of a “crisis” can be a good catalyst for building needed support for reform it is not sufficient to ensure success. A suite of potential reforms should be developed and debated even if the circumstances that would permit their introduction do not yet exist. Once the required circumstances exist, further consultation is needed for the specific reform package to be a success. This suggests not only the need for regular long-term strategic reviews but also robust consultation in respect of specific reform packages.

Lesson 3 – Long-term strategic reviews and consultation processes for current reform proposals play different roles

Some reviews are focused on setting a long-term strategic agenda for tax reform, while others are designed to deliver packages of reforms for implementation.

Confusion about the two can cruel reform. The approach to the finally successful introduction of the GST can be contrasted with the response to the more recent Henry Review. The terms of reference of the Henry Review were in fact focused on the long term. However it was widely misinterpreted as a review to which the then Government needed to immediately respond. The confusion was at least partly caused by who performed the work and where the report was first delivered.

As the study by the Oxford University explained:

“The Panel included two academics, a business representative and a government official – a promising indication of openness. However, the chair of the review was Treasury Secretary, Ken Henry, who retained his Treasury position whilst carrying out the review. This proximity to government may have created the expectation that when the review was completed it would be published immediately and some, if not all, of its recommendations accepted and legislated.”

Case study 2: Tax reform focused on changing behaviour (continued)

Aspects of Superannuation have seen regular revision.

- The tax treatment of Superannuation has been highly controversial, both for contributions, earnings and access to benefits. For example, a “superannuation surcharge” essentially an extra tax – was levied on high income earners between 1996 and 2005, before being scrapped.

- The cut off age for access to the Superannuation Guarantee has been abolished.

- The “preservation age” at which Superannuation can be accessed has been increased so people born after 1964 may access it only after age 60.

- Rules about which funds Superannuation is paid into have also been changed several times.

At a broad policy level the superannuation reform is arguably a success. However the ongoing amendments to the details of its implementation reflect that this area of policy remains among one of the most complex and hotly contested issues in Australian politics.

The Lambert Review that reported to the NSW Government in 2011 was not publicly released for eight months, and eventually made public without fanfare. It proposed a range of reforms that could keep governments busy for years, from land tax to congestion charging. The NSW Government was unable to implement them all, and the review’s impact so far has been minimal. Unless the purpose of a review is properly defined, a review that is not immediately implemented runs the risk of being characterised as a failure. The form of consultation and the nature of the report that flows from long-term agenda setting reviews are different to that for packages of proposals that are to be more immediately implemented.

The independence of the reviewing body from government can help with this problem. Similarly, Treasury consultation papers and government green papers on impending reforms are useful but their status needs to be clearly defined.

Lesson 4 – Involvement of the States in the tax reform process is preferred

Both Commonwealth and State levels have tax challenges to fund their expenditures. They need to reduce overlap and waste in their expenditure commitments. As well, they need to reduce overlap and waste in their tax revenue bases and to adequately fund state expenditures. That’s why the Henry Review recommended significant consultation among the Commonwealth and States. That will take time, which is unavoidable.

Application – The preferred model for tax reform in Australia would involve both the Commonwealth and the States. This suggests that over time the States should be encouraged to participate in the agreed tax reform processes recommended by this paper.

Case study 2: Tax reform focused on changing behaviour (continued)

Resource Super Profits Tax/Mineral Resources Rent Tax

The experience of Australia’s Resource Super Profits Tax proposal is arguably an example of tax reform gone wrong. The analysis by the Oxford University Centre for Business Taxation commented:

“The Rudd Government of Australia, with the intention of bringing together all elements of the tax community and involving the general public, commissioned the Henry Review in early 2008...However, the report was left unpublished between its completion in December 2009 and May 2010 when it was released side-by-side with a response from the government. The only major tax measure introduced was the Resource Super Profits Tax. The policy sparked a major rift between the primary resource sector and the Rudd Government. The ensuing fallout was largely considered to have led to the fall of Rudd, and his replacement within the Labour Party.”

Application – Reviews that are focused on setting a long-term agenda should report publicly and be clearly distinguished from the development of packages of current reform proposals. This suggests that long-term strategic reviews should be performed by and released publicly by a body separate from the operational arms of government.

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20 Above n 19.


Lesson 5 – Positive reforms will not always win political support at first
The politics of reform can be understood through a game theory lens. A political party may oppose a tax reform proposal put forward by a Government even though it is aware of the merits of the reform. The short-term electoral success of the opposing party may be well served using this strategy.

Some taxes that now enjoy widespread support were opposed in Parliament at the time of their introduction. However, while bipartisan support can guarantee tax reform a smooth ride when the reforms are first proposed, it is too much to hope for in many cases. But it is not only support within parliament that is important. Broader community support (if not consensus) is also a helpful enabler of successful reform.

Focus therefore needs to be on ways to build coalitions of support for tax reform proposals both within parliament and within the broader community. Giving time for consultation and debate about tax reform ideas outside the hot bed of immediate tax reform implementation can assist this process. So too can robust consultation about particular reform packages.

Application – The scope of tax reform discussion ought not to be delimited by current political positions. This again suggests the need for an independent body to regularly facilitate a broad community conversation about tax reform options.

Lesson 6 – Bundling reforms into packages helps provided the identification of winners and losers is credible
Tax reform inevitably creates winners and losers. Successful tax reform often requires the bundling of tax reforms into packages that include trade-offs and compensation or that “share the pain” equitably.

While compensation is often key to making tax reform stick, making sure there are no losers can negate the benefits of the reform. Compensation in Australia has often been delivered by way of personal income tax cuts. That has a big advantage – governments are able to recoup lost revenue over time via “bracket creep” – the falling real thresholds of unindexed personal income tax. Of course the ability to “afford” full compensation is not always present. Sometimes it is necessary to ensure that the “pain” of tax reform is seen to be shared equitably.

Framing tax reform in a package that includes both winners and losers has proved successful in the past. But it is the credibility of the identification of the winners and losers from the package that is a key determinant of success.

Application – Piecemeal tax reform should be limited and compensation should be carefully designed. Identifying the winners and losers and quantifying the relevant amounts both in the short and long term can be critical to the success of proposed tax reform proposals. The credibility of these assessments can play an important part. This suggests the need for a body independent to the operational arm of government to help give credibility to this process without removing the Government’s ultimate decision making authority.

Case study 2: Tax reform focused on changing behaviour (continued)
The tax was announced and implemented without public consultation. The successor Gillard Government subsequently entered into some limited consultation and introduced a changed proposal – the Mineral Resources Rent Tax. A comprehensive public consultation process of the Resource Super Profits Tax before it was announced as a final proposal might have helped identify problems with its design and may have led to a better consensus building process.

It is interesting to note the position of the current opposition to this issue. Chris Bowen, the Labor shadow treasurer, has commented: “We’re committed to the principle of taxing the minerals under the ground, and taxing the wealth created by them, and distributing that wealth fairly” and the mining tax policy would be informed by “consultation and by the thinking that we do in our time in opposition.”

The lesson about the need for better consultation seems to have been learned.

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Lesson 7 – Oversight by an independent review committee is important

Successful reviews often feature oversight by a reform committee comprising private sector and broader community members.

It is interesting to note that both the Asprey Report and Ralph Reviews involved the creation of independent review committees to perform the consultation process.

As a Canadian review of a number of countries’ tax policy processes found:

“Although in general the Australian process for making tax policy works quite well, the centralization of the process in the Treasury means that there is a lack of competing tax policy advice from inside or outside government. The government has attempted to compensate for this lack of contestability through consultation with the tax community on proposed tax changes. In effect, the government consults on how tax measures should be implemented, but not on why they should be adopted in the first place.”

Truly independent review committees allow for more transparent debate and exploration of issues at one remove from government, reducing political risk. They also enable involvement of academic institutions and other tax policy actors, in a contestable manner.

New Zealand is a leading example of the process, where the New Zealand Tax Working Group was funded jointly by the New Zealand Treasury and Inland Revenue Department and the Victoria University of Wellington. The group was given public backing which gave them status and national importance without imposing government control.

The Government made it clear they would not be ruling out any options until the report was complete and that government officials had no final say over its conclusions. The review members actively engaged in media and community discussion about the review, and this helped build consensus.

Case study 3: Consolidation Regime: tax reform focused on repair

That Australia’s tax consolidation regime is in need of reform has been clear for some time.

Consolidation refers to the ability of a related group of companies and entities to pay tax as one entity.

The goal of the consolidation regime was to reduce business compliance costs, to prevent double taxation of either losses or gains, and to replace limited provisions available to groups of companies, such as transfer of losses. It was expected to reduce the need for detailed anti-tax avoidance laws like those that accompanied existing law.

The consolidation regime’s genesis was in the 1999 Ralph Review of Business Taxation, where it proved relatively uncontroversial. The law, introduced by the Howard Government and framed as meeting concerns about tax avoidance – was introduced without great opposition in 2002. The first draft bill was released in 2000, the eventual bill passed in 2002, and other legislation followed soon thereafter with additional details.

From one perspective the regime can be said to be successful. Consolidation is voluntary, but has been taken up widely by larger entities. However the complications of the regime have proved many and its implementation very protracted.


Independent reviews can also assist Treasury. First, they help to build the public case for action and its priority. This is important when Treasury is resource-challenged and focused on seeking to meet other immediate government priorities. Second, they allow for better marshalling of public comment. Treasury Secretary Martin Parkinson noted that:

“We have been working on, since the Strategic Review, improving engagement with stakeholders. However, these skills still need to be developed more broadly across the Treasury, and embedded into everything we do.”

The strong role of Australia’s Board of Taxation should also be noted. However the Board has no formal status, it has few resources of its own, its reports are input into Treasury and government processes and are released at a time of the Treasurer’s choosing.

**Lesson 8 – The tax system needs constant repair and maintenance**

The backlog of unlegislated reforms that existed at the end of 2013 shows that without a regular process, repairs to existing tax law can meander and slacken. Between changes in government and amid uncertainty about individual issues, whole swathes of important changes can gather dust.

The size of that list indicates the political, management and governance problems that existed in Australia’s tax reform processes.

But when the need for change is being considered it is important not to overreact or overreach. Sometimes the effects of apparent anomalies and/or loopholes are overblown with the costs of suggested remedies are out of proportion with the problem.

**Application – A regular and agreed process to gather minor changes and legislate them by a set date, in an omnibus bill, would add structure and timeliness to the process of reforming and updating the tax system.**

**Case study 3: Consolidation Regime: tax reform focused on repair (continued)**

The consolidation regime comprises nearly 300 pages of highly technical legislation. It has led to scores of Australian Taxation Office rulings and determinations. The consolidation reference manual is over 1000 pages long.

A cycle of reviews and amendments has been necessary to ensure that the legislation meets its policy intent. For example, amendments to one aspect of the consolidation regime (consolidation rights to future Income and residual tax cost setting rules) were passed in 2010, applying retrospectively to 2002. Their passage was followed nine months later by a further review of these matters. That review was given two months to report. It was released a further six months later, with a government response that changed the law again, with retrospective application.

The transitional arrangements were described by observers at the time as limited. At the same time the Government announced changes to aspects of the consolidation regime – undertaken by the Board of Taxation – began in 2009 and reported to the Government during 2012 and 2013. The eventual report was released with the Budget in 2013.
Lesson 9 – Responsibility and accountability for tax law policy and reform needs to be clearer

The shortfall in legislative drafting is not simply related to timeliness. Tax law is full of examples where legislation fails to unambiguously convey the policy intent. A shortfall of communication between the ATO, Treasury and Office of Parliamentary Counsel seems to exist.

The need, by 2012, for a formal protocol to be developed to guide interactions between Treasury and the ATO hints at how difficult this process can be. The protocol is designed “to enable the best possible functioning of the tax and superannuation systems that Treasury and the ATO share the stewardship of.” The protocol is welcome but the issue needs continuous attention.

Good tax reform requires comprehensive links between policy makers and legislation drafters so that policy intent is fully reflected in the law. The need for tight legislative drafting is higher in tax than other fields because of the significant role that the tax system plays and the motivation of taxpayers to use the law to their advantage.

Application – The link between policy makers, administrators and legislative drafters should be as close as possible. This suggests the need for a new body to take overall responsibility for the coordination of these links without impingeon the Government’s ultimate decision making authority.

Lesson 10 – Tax revenue forecasting needs to be independent and transparent

Governments seeking to reform the tax system are conscious of the budgetary impact. Unfortunately the practice of revenue forecasting of the future impact of tax reforms is often conservative, with incomplete regard for any behavioural impact on taxpayers or the potential growth in the economy that may flow from the proposed change. This forecasting is often seen by some to act as a dead weight on or a distortion of tax policy development. The control of the forecasting process by Treasury and the Australian Taxation Office, with limited transparency, has tended to add to this concern.

The challenges and questions to the integrity and governance of the Treasury and government modelling process were explored in the Symposium by the Australian National University College of Business and Economics in its 2012 symposium on Policy Modelling by Government Agencies in Australia. In part, these concerns led to the creation of the Parliamentary Budget Office as an independent source of tax policy and costing input.

Application – The credibility of forecasts used to support tax reform is critical to its success. This suggests that revenue forecasting should be performed by a body that is independent of the operational arm of government and the process by which forecasts are made should be made more transparent.

Case study 3: Consolidation Regime: tax reform focused on repair (continued)

The Government chose to implement only some of the reforms, including those that improved revenue, while continuing to consider other changes. Stakeholders indicated disappointment in the response.

The painful process of tax consolidation reform means its overall success is an open question. The Board of Taxation has stated that consolidation has “delivered substantial efficiency and integrity improvements.” But the introduction of a unique asset-based model of law, the lack of a comprehensive legislative package to resolve all issue at inception and the slowness to implement government announcements have resulted in difficulties.

University of Sydney tax expert Anthony Ting has written “the Australian regime provides some unusual attractions under its unique asset-based model. However, the price to pay for these advantages—namely the problems and complexity associated with them—is high, perhaps too high to be acceptable as a model for other countries.”

The need for reform of the consolidation regime has been substantial and is ongoing. A further review of aspects of the law will be undertaken by Treasury in 2015.

30 Anthony Ting (University of Sydney), “The Australian regime provides some unusual attractions under its unique asset-based model. However, the price to pay for these advantages—namely the problems and complexity associated with them—is high, perhaps too high to be acceptable as a model for other countries.”

31 Anthony Ting (University of Sydney), Australia’s Consolidation Regime: A Road of No Return? (Thomson Reuters (Legal) Limited and Contributors 2010).
The unique circumstances of Australia’s tax debate require bold action. EY believes Australia should implement as a matter of urgency, processes and responsibilities that can improve the chances of successful and sustainable tax reform.

Forecasts of ongoing budget deficits and the need for a globally competitive tax system mean pressure for further tax reform is building. In a changing world, no tax system can remain optimal for long. Policies that underpin the tax system must therefore constantly evolve to best suit the changing conditions.

Even in the absence of these broader policy changes any tax system will need ongoing reform to maintain and improve its implementation and administration. This maintenance is needed to correct anomalies and unintended consequences and to streamline the operation and increase the certainty of the system.

Because the need for tax reform is a constant we think it should be thought of as a journey and not a destination. Two questions should be considered. First what processes should be followed to best navigate the tax reform journey? Second what are the institutions that should lead the way on the tax reform journey?

It is only after careful consideration that EY recommends the establishment of a new body to take responsibility for tax reform. Being wary of the accusation of creating “yet more bureaucracy,” the recommendation was reached only after carefully weighing the institutional advantages of linking the necessary processes to an independent statutory body.
The Commission should be formed as a statutory authority under its own Act, following the models of the Australian Law Reform Commission and the Productivity Commission. It would be an independent entity under the Treasury Portfolio, with a chief commissioner appointed by the Governor General.

Its statutory independence would not only permit frank and fearless advice but encourage public confidence in the quality and impartiality of that advice.

The chief commissioner should be an eminent Australian. Candidates would include former senior public servants and highly-regarded people from the business and community sectors, who could maintain public interest in taxation reform.

As well as commissioners, the entity would be staffed by tax experts, economists and other relevant experts drawn from tax portfolio agencies and the private sector. Its long-term funding should also be broadly assured so as not to expose it to the government of the day for its existence and relevance.

**Recommendation 2**

That the Australian Tax Reform Commission be responsible and accountable for four separate but complementary outcomes.

1. The first outcome involves regular scheduled whole of tax system strategic reviews. These reviews should not be dependent upon a particular decision or request from Government, but carried out every five to seven years. The reviews should focus on systemic issues in the tax system, and potential future issues. In considering possible policy responses, all options should be “on the table”. These broader reviews should not include detailed analysis of legal drafting or detailed implementation issues. The reviews should be high profile and involve public consultation with relevant government departments, the Australian Taxation Office and the community. These reviews should explicitly focus on the identification of the broad long-term policy reform agenda rather than short-term specific reform packages. The Commission should provide its report to the Government and to the public at the same time. The Government could also direct the Commission to perform this type of review at any other time.

2. The second outcome involves consultation on specific tax reform packages and advice to government. This consultation should only be performed at the direction of Government. It should focus on specific reform proposals that the Government wishes to implement in the near term. The process should involve a two stage consultation approach. The first stage should focus on relevant consultation about the relevant policy issues and the provision of advice to government about the outcomes of that consultation process. The second stage should focus on the form of the legislation and other implementation issues once the policy direction has been settled. The outcome of this stage should be advice to government about the practical implementation of the proposed tax reform.
The Government would decide whether and how to adopt that advice. These reviews and consultation processes could be either public or confidential or a mixture of both depending upon the nature of the proposed reform package. The Commission would have the responsibility for the appointment of members to the relevant review committees. They could include public and private sector personnel. In effect the Commission would perform the consultation process on behalf of the Government and would in that sense become the expert advisory body for the Government regarding specific tax reform packages without impinging on the Government’s ultimate decision making authority.

3. The third outcome involves yearly tax reform maintenance reviews, culminating in the passage of an annual omnibus tax technical corrections bill. Each year the Commission should execute a formal process of receiving submissions from the Australian Taxation Office and taxpayers generally about areas of the tax system that require reform in the form of repair and maintenance. The submissions should (where necessary after consultation with government) be categorised into those that may need decisions about changes to policy and those that are technical corrections. The former should be referred to Government for assessment. They may become part of subsequent tax system reviews or reform package reviews, as noted above. The technical corrections should be compiled and dealt with through yearly technical corrections bills. This may involve further short and focused consultation with relevant stakeholders. The advice to government about the technical corrections bill would be a key annual responsibility of the Commission.

4. The Commission should be responsible for post implementation reviews of legislation and regulations. These reviews should seek submissions from the Australian Taxation Office and taxpayers generally about the implementation of new legislation. The success of the legislation in meeting the original policy intent should be assessed. Any errors or unintended consequences should be identified and included on the tax reform maintenance list for subsequent further reform.

**Recommendation 3**

That the Federal Government encourages the States to support and participate in the establishment and activities of the Commission.

While the statutory powers of the Commission would be defined under federal law, the nature of Australia’s tax system means the Commission’s work would frequently stray into state issues. The regular reviews of the tax system can be expected to touch on many issues of state taxation and fiscal federalism. The States should therefore be encouraged to be involved in the establishment of the Commission, preferably by lending it their explicit approval to consider state taxation issues, and thereafter by referring to it the conduct of consultation on state tax issues.
EY — Tax Reform: A Better Way
The Case for an Australian Tax Reform Commission
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