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## TAX LAWS AMENDMENT (SMALL BUSINESS RESTRUCTURE ROLL-OVER) BILL 2016

### SUMMARY OF CONSULTATION PROCESS

The Government announced on 12 May 2015 that it would allow small businesses with an aggregated annual turnover to change legal structure without attracting a capital gains tax liability.

This measure was included in Tax Laws Amendment (Small Business Restructure Roll-over) Bill 2016.

#### Consultation process

Public consultation on the exposure draft and explanatory material was conducted between 5 November 2015 and 4 December 2015. Nineteen submissions were received, including one confidential submission. Additional targeted consultation was undertaken with some members of the Board of Taxation, as well as with many individuals and organisations that made a submission on the exposure draft legislation.

Submissions can be viewed on the [Treasury website](#).

#### Summary of key issues

The submissions generally supported the introduction of the small business restructure rollover.

Significant concerns raised in submissions included the following:

- The interaction of the rollover with other integrity rules in the income tax law;
- The requirement not to provide consideration, particularly the assumption by the transferee of liabilities of the transferor entity; and
- The requirement for small business entities to meet the maximum net asset value test.

To address these concerns, the Bill included a provision turning off the application of numerous existing integrity rules that may have interacted with the roll-over to create an additional taxing point. The requirement not to provide consideration was removed. In addition, small business entities seeking to use the roll-over no longer have to meet the maximum net asset value test.

Submissions also raised questions about the concept of ‘ultimate economic ownership’. This is intended to operate as a general principle to ensure that the beneficial ownership of assets does not change as a result of the rollover. Prescriptive rules detailing how to determine ultimate economic ownership in all possible scenarios would result in complicated and unwieldy provisions that could



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not be easily used by small business. Guidance on how to apply the principle has been provided in the explanatory memorandum.

#### **Feedback**

Feedback on the consultation process for this measure can be forwarded to [consultation@treasury.gov.au](mailto:consultation@treasury.gov.au). Alternatively, you can contact Victoria Bennett on +61 2 6263 2511.

Thank you to all participants in the consultation process.