



Australian Government

The Treasury

STRENGTHENING SCRIP FOR SCRIP ROLL-OVER, SMALL BUSINESS AND OTHER CONCESSIONS

SUMMARY OF CONSULTATION PROCESS

The Government announced on 10 May 2011 that certain integrity rules in the small business concessions and the scrip for scrip roll-over provisions would apply to life insurance companies, superannuation funds and trusts in the same way that they apply to other types of entities. Following consultation, the Government announced on 8 May 2012 that the law would look-through certain asset holding arrangements for the purpose of the integrity rules (and the CGT provisions more generally) and treat the underlying entity as the owner of the asset.

This measure was included in Tax Laws Amendment (2013 Measures No. 1) Bill 2013, which was introduced into Parliament on 15 May 2013.

Consultation process

Consultation on the initial policy design was conducted between 27 May 2011 and 24 June 2011. One submission was received.

Consultation on the initial draft legislation was conducted between 22 July 2011 and 19 August 2011. One submission was received.

Consultation on the subsequent policy design was conducted between 20 June 2012 and 18 July 2012. Four submissions were received.

Consultation on the subsequent draft legislation was conducted between 20 March 2013 and 10 April 2013. One confidential submission was received.

Submissions can be viewed by clicking on the following links.

[Initial policy design](#)

[Initial draft legislation](#)

[Subsequent policy design](#)



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Summary of key issues

Tests based on actual ownership

Submissions suggested that it was inappropriate for the integrity rules in the scrip for scrip roll-over and small business concessions to use actual ownership for absolutely entitled beneficiaries and security arrangements. The rules seek to determine whether an entity controls, or has the potential to control, another entity but a test based on ownership would identify the trustee or the security holder (actual owner) rather than the beneficiary or security provider who controls the asset.

As a result, the Government announced as part of the 2012-13 Budget that these integrity rules, and the CGT provisions more generally, would look through certain asset-holding arrangements to the underlying owner of the asset.

Issues surrounding absolute entitlement

Submissions argued that these amendments should address other long-running concerns surrounding absolute entitlement. The Government has referred these long-running issues to the taxation of trust reforms so as to not delay these amendments.

Feedback

Feedback on the consultation process for this measure can be forwarded to consultation@treasury.gov.au . Alternatively, you can contact Paul McMahon on (02) 6263 3385.

Thank you to all participants in the consultation process.