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TOFA CONSOLIDATION INTERACTION AND TOFA TRANSITIONAL BALANCING ADJUSTMENT AMENDMENTS

SUMMARY OF CONSULTATION PROCESS

The Government announced on 25 November 2011 that it would amend the taxation of financial arrangements (TOFA) consolidation interaction and transitional provisions to ensure that the tax treatment of financial arrangements that are part of the assets and liabilities in a consolidation/joining event is consistent with the TOFA tax timing rules and takes into account changes in value of financial arrangements that are liabilities.

This measure was included in Tax Laws Amendment (2012 Measures No. 2) Bill 2012, which was introduced into Parliament on 24 May 2012.

Consultation process

Consultation on exposure draft legislation and related explanatory material was conducted between 18 April 2012 and 2 May 2012. Seven submissions were received.

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

Summary of key issues

Policy issues

Stakeholders were concerned that the amendments would apply retrospectively from the commencement of the TOFA provisions. In the event that the amendments would apply retrospectively, stakeholders were concerned that they may not be able to amend prior income tax assessments that are impacted by the amendments.

Submissions also raised issues with the application of the amendments to financial arrangements that are part of a tax consolidation of a wholly own group (formation case) and of chosen transitional entities.

Changes as a result of consultation

Taxpayers will be able to amend prior assessments within two years of the commencement of these amendments to give effect to the amendments.

Financial arrangements of a chosen transitional entity will be carved out of the application of the amendments.

The head company's deemed assumption value for liabilities that are part of a pre-TOFA formation will be changed from the liability's accounting value to its tax carrying value.



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Changes that were not adopted

The amendments, which are intended to ensure that the TOFA consolidation interaction and transitional provisions operate as intended, will apply retrospectively from the commencement of the TOFA provisions. This is consistent with prior Government announcements regarding amendments to the TOFA provisions and the retrospective application of all other amendments to the TOFA provisions.

Feedback

Feedback on the consultation process for this measure can be forwarded to consultation@treasury.gov.au . Alternatively, you can contact Nan Wang on (02) 6263 2768.

Thank you to all participants in the consultation process.