

## CONSULTATION GUIDE

The Business Tax Working Group (Working Group) has completed its interim report for the Treasurer on the tax treatment of business losses. The interim report explores the tax treatment of losses in Australia, in particular how this treatment affects Australian businesses' ability to respond to emerging challenges and take advantage of new opportunities presented by changes in the local economy and developments abroad. In the report, the Working Group outlines some possible reform options that may increase productivity, while delivering tax relief to struggling businesses.

The Working Group now invites written submissions from businesses and the wider community on the issues and ideas raised in the interim report. Feedback received through submissions will inform the Working Group's final report on the tax treatment of business losses.

To assist interested parties in making submissions, some framing questions are included below.

For more information on the Business Tax Working Group, its terms of reference and how to make a submission, or to obtain a copy of the interim report, please visit the Treasury website ([www.treasury.gov.au](http://www.treasury.gov.au)).

### TIMING AND PROCESS

Written submissions in response to the interim report are requested by Friday, 3 February 2012. While submissions may be lodged electronically or by post, electronic lodgement is preferred. For accessibility reasons, please submit responses sent via email in a Word or RTF format. An additional PDF version may also be submitted.

#### Submissions should be provided to:

Business Tax Working Group Secretariat  
The Treasury  
Langton Crescent  
PARKES ACT 2600

**Email:** [BTWG@treasury.gov.au](mailto:BTWG@treasury.gov.au)

**Phone:** (02) 6263 3115

All information (**including name and address details**) contained in submissions will be made available to the public on the Treasury website unless you indicate that you would like all or part of your submission to remain in confidence. Automatically generated confidentiality statements in emails do not suffice for this purpose. Respondents who would like part of their submission to remain in confidence should provide this information, **marked as such**, in a separate attachment. Legal requirements, such as those imposed by the *Freedom of Information Act 1982*, may affect the confidentiality of your submission.

## CONSULTATION QUESTIONS

To support with the consultation process and assist in responding to the ideas in the interim report, the Working Group has put together a set of consultation questions. These questions are provided to help the community respond to the ideas contained in the interim report and allow the working group to properly consider all of the views held by businesses and the wider community.

### 1 – Decision making and the tax treatment of losses

- 1.1 How does the current tax treatment of losses affect decisions about your business or businesses that you are familiar with, in particular; decisions about:
  - a. undertaking new investment;
  - b. raising equity or debt; and
  - c. undertaking research and development and introducing innovations?

### 2 – Integrity provisions

- 2.1 How do the current integrity provisions (continuity of ownership test (COT) and same business test (SBT)) affect decisions about your business or businesses you are familiar with?
- 2.2 Has the possibility of failing the COT and SBT stopped your business, or a business you are familiar with, from undertaking some activities? If so, how?
- 2.3 What costs are incurred in meeting the COT and SBT?
- 2.4 What would be the impact on your business decision making of introducing:
  - a. an available fraction test; and
  - b. a purpose test?
- 2.5 What compliance costs would be incurred in meeting the above tests?

### 3 – Elements most valuable to businesses

- 3.1 What would be the impacts of a one-year carry back on your business (including impacts on decision making and cash flow)?
- 3.2 What would be the impacts of a three-year carry back compared to the one-year carry back?
- 3.3 What do you think of a loss carry back restricted by time? Should the carry back be restricted in terms of the amount of loss carried back instead of, or in addition to, the time restriction?
- 3.4 What would be the impact on your business of limiting the loss carry back to the franking account balance?

- 3.5 Should loss carry back be limited to the franking account balance or the increase in the balance over the allowable time period?
- 3.6 Should the amendment periods applying to companies accessing loss carry back be increased?
- 3.7 What is the appropriate uplift rate to be applied to losses carried forward?
- 3.8 Of the possible reforms outlined in the interim report, which element or combination of elements would be most valuable from the perspective of your business or businesses you are familiar with? How would they be of benefit?

#### **4 – Broader changes to the tax system**

- 4.1 How would you rank reforms to the tax treatment of losses against other changes to the business tax system?
- 4.2 How would you rank reforms to the tax treatment of losses against other forms of Commonwealth regulation?