



## **ASSISTANT TREASURER**

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**PRESS  
RELEASE**

### **RELEASE OF BOARD OF TAX REVIEW AND GOVERNMENT RESPONSE ON TECHNICAL ASPECTS OF EMPLOYEE SHARE SCHEMES REFORMS**

The Assistant Treasurer, Senator Nick Sherry, today released the Board of Taxation's review into elements of the taxation of employee share scheme arrangements.

The Assistant Treasurer asked the Board of Tax to examine how best to determine the market value of employee share scheme benefits, and whether shares and rights under an employee share scheme that are provided by start-up, research and development and speculative-type companies should be subject to a tax deferral arrangement, despite not being subject to a real risk of forfeiture.

The Board's review makes five recommendations and includes a report by the Australian Government Actuary into the valuation of unlisted rights.

"I thank the Board for its work – these are highly technical aspects of the taxation treatment of employee share schemes, so I thought it important to seek the advice of the appropriate technical experts," said the Assistant Treasurer.

"The findings of the Board are consistent with the Government's employee share scheme reforms, and we fully accept four of the five recommendations and, in relation to a fifth, we partially accept it and will delay the consideration of one particular aspect to a later date."

"The Tax Office has agreed to all aspects of the recommendations that relate to it and has already started work on implementing each of them."

On the issue of how to value listed and unlisted shares and options or rights within a share scheme, the Board finds that the approach employed by the Government in the 2009 reforms, using the ordinary meaning of market value to value these interests, is the most appropriate for those interests.

On the use of set statutory valuation tables, the Board also endorsed not using such tables for listed and unlisted shares, but supported the Government's decision to retain statutory valuation tables for unlisted rights.

"This decision, which gives taxpayers a simpler way to value unlisted options and rights, was endorsed by the Board, although the Board also recommended that the factors underlying the statutory valuation tables be reviewed and updated," said the Assistant Treasurer.

“The Government agrees that the methods underlying these valuations should be made more transparent but notes that the immediate application of the actuarial tables included in the report would increase the levels of tax on these types of interests.”

“As such, we’re not going to rush into this. We will talk to the affected community over the next twelve months and make any decisions on updating the statutory table in the context of the 2011-12 Budget.”

The Board also recommends that the Commissioner of Taxation provide further guidance material on acceptable valuation methodologies for employee share schemes, and develop an online calculator tool to assist taxpayers.

“The Tax Office expects these guidance materials to be ready to help taxpayers in the near future. They have also started work on the development of online calculators.”

On the tax treatment of employee share schemes used by start-up, research and development and speculative type companies, the Board recommended against the introduction of separate tax deferral arrangements, citing a range of integrity, complexity and compliance concerns.

“The Board has recommended that support for these industries is best provided directly, and that is what we are doing,” said the Assistant Treasurer.

“The Rudd Government is supporting research and development activities and small businesses through a range of policies, with the Commonwealth’s support for business innovation expected to exceed \$2 billion in 2009-10,” said the Assistant Treasurer.

The Board recommendations, which were based on extensive consultations, complement the wide consultation process led by the Assistant Treasurer after the 2009-10 Budget.

The Board’s full review is available at [www.taxboard.gov.au](http://www.taxboard.gov.au).

CANBERRA

23 April, 2010

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## **Recommendations of the review into elements of the taxation of employee share schemes (ESS)**

### **Recommendation 1: Valuation of listed securities**

The Board recommends that the valuation methodology for valuing listed securities issued under ESS arrangements be in accordance with the ordinary meaning of market value.

In addition, the Board recommends that the Commissioner of Taxation release a public document which offers taxpayers further guidance on acceptable valuation methodologies for valuing listed securities.

In addition, the board recommends that the Commissioner of Taxation develop this guidance in consultation with interested stakeholders.

### **Recommendation 2: Valuation of unlisted shares**

The Board recommends that the valuation methodology for the valuation of unlisted shares issued under ESS arrangements be in accordance with the ordinary meaning of market value.

In addition, the Board recommends that the Commissioner of Taxation release a public document which offers taxpayers further guidance on acceptable valuation methodologies that can be applied when valuing unlisted shares issued under ESS arrangements.

The Board recommends that the Commissioner of Taxation develop this guidance in consultation with interested stakeholders.

### **Recommendation 3: Valuation of unlisted rights**

The Board recommends that the valuation methodology for the valuation of unlisted rights issued under qualifying ESS arrangements be in accordance with the ordinary meaning of market value.

The Board also recommends a statutory 'safe harbour' valuation methodology in accordance with which participants can elect to value unlisted rights.

### **Recommendation 4: Statutory valuation tables**

The Board recommends the continued use of the statutory valuation tables as a 'safe harbour' for valuing unlisted rights, however the Board recommends that the factors underlying the statutory valuation tables be reviewed and updated to more accurately reflect current market conditions.

Further, the Board recommends that the tables be reviewed from time to time to ensure the tables remain broadly reflective of market conditions, and the basis and assumptions behind the statutory valuation tables be made available to the public.

The Board recommends the Commission of Taxation develop an online calculator tool to assist taxpayers to apply the statutory valuation tables to value their unlisted rights.

### **Recommendation 5: Separate tax deferral regime for start-up, R&D and speculative-type companies**

The Board does not recommend the introduction of separate tax deferral arrangements for start-up, R&D and speculative-type companies.

The Board recommends that should the Government wish to provide additional support to start-up, R&D and speculative-type companies, the Government consider more targeted approaches to providing this support outside of the ESS tax regime.