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PERTH

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INTRODUCTION

It's wonderful to be on the west coast – it's such a dynamic and exciting atmosphere – I wish I could be here more often.

Thank you for inviting me here to speak at this important forum. And I especially thank Yasser El-Ansary, the Institute's Tax Counsel. With around 58,000 members from across commerce and industry, universities, government and practices in Australia and 119 countries, the Institute is a critical player in the tax arena. I am truly delighted to be here.

AUSTRALIA'S ECONOMIC POSITION

Australia's economic performance in 2009 was strong in the wake of the global financial crisis. It was a devastating year for the global economy and Australia's performance was remarkable by comparison.

And we are going from strength to strength. While the global conditions remain challenging, the Australian economy continues to grow.

In its latest World Economic Outlook released in January, the IMF forecast that Australia's real GDP would grow to 2½ per cent in 2010 and 3 per cent in 2011. Australia's economy grew by 0.9 per cent in the December quarter and 2.7 per cent through the year to that quarter.

This solid performance reflects the success of the Government's economic stimulus package. It significantly boosted confidence in households and businesses, when the outlook was bleak.

The global economy is picking up. Concerted global policy action boosted growth, feeding through to Australia's financial sector. And investment in resources is set to take off.

I don't need to go into too much detail — it's happening all around you.

The Gorgon LNG project is a clear example. At \$43 billion, this is Australia's largest resource project ever. It will support around 10,000 jobs, directly and indirectly, during peak construction, and significantly boost private investment.

The West Australian economy looks set to grow by 2¼ per cent in 2009-10 and 2¾ per cent in 2010-11. And as the Gorgon project peaks, surging business investment will pump up growth to 4 per cent in 2011-12 and 4¾ per cent in 2012-13.

At the same time, jobs, investment and export incomes from the mining industry will drive more growth and development here in the west.

FOREIGN INVESTMENT IN AUSTRALIA

Australia's ability to attract foreign capital to invest and grow businesses is a key ingredient of this economic growth. And it will continue to be key.

Foreign investment helps us build and expand our economies – both state and national. It helps create new jobs and supports existing ones. It boosts innovation and stimulates competition.

The Australian Government supports and welcomes this foreign investment. And we recognise that overseas investors who are keen to share in the benefits of Australia's future need transparency, certainty and stability.

And Australians also need to share in the benefits of this prosperity, both now and in the future.

FUTURE CHALLENGES AND THE AUSTRALIA 2050 REPORT

Australia's living standards and government finances will face many challenges over the next 40 years. These include an ageing population and escalating pressures in the health system.

For example, if spending on ageing and health stay at current levels, total government spending will jump from around 22 per cent of GDP in 2015, to around 27 per cent by 2050. 5 per cent of GDP is a big jump.

That's why rising health costs are, by far, our biggest fiscal pressure. Health costs alone will account for more than two-thirds of the projected increase in spending.

While these challenges are substantial, they are not beyond us.

If we work to grow our economy, we can more easily meet the fiscal pressures of a population that is ageing.

We can do this by raising productivity growth over the next 40 years and removing barriers to workforce participation.

We have introduced changes to improve the sustainability of the age pension. We have raised the pension access age, reformed a number of family payments and introduced legislation to means test the private health insurance rebate.

Managing our investments effectively is also critical to sustaining living standards. As you probably know, Australia has one of the largest investment fund asset pools in the world. And it is growing strongly.

JOHNSON REPORT AND AUSTRALIA AS A FINANCIAL CENTRE

Our financial system fared well in the global financial crisis, and now we need to capitalise on the strengths of our regulatory system, our sophisticated financial sector, and our proximity to the fastest growing region in the world.

As the Johnson report noted, our neighbours will need to develop a wider range of financial services over coming years. This includes capital markets, retirement income schemes, and asset management and insurance products.

Australia's opportunities to leverage off our financial services skills and expertise are potentially enormous.

To enhance the sector's competitiveness, the Government is committed to a tax system that is fair, certain and efficient.

The Johnson Report makes some tax related recommendations, including:

- abolishing interest withholding tax on offshore borrowings;
- removing state based taxes on insurance;
- commissioning a Board of Taxation review to ensure a level playing field for Islamic finance products in Australia; and
- introducing an Investment Manager Regime, to provide tax certainty on offshore funds under management in Australia.

The Government is carefully considering each recommendation.

Some overlap with issues considered in the independent tax review.

Because tax reform is vital to Australia's economic future, I want to take time now to detail some reforms we have recently put in place.

KEY TAX ISSUES

Private Equity

The ATO's recent private equity draft determinations are attracting a lot of interest.

One deals with whether the gain from the disposal of the target assets is of a revenue or capital nature.

The other considers whether the general anti-avoidance provision of the income tax law can apply where the private equity investment is routed through holding companies in foreign jurisdictions, which could include a tax haven.

The ATO has received submissions and consulted with interested parties. So a process is in place here, and it should be allowed to run its course. It's the proper role of the ATO to provide its view on how the current tax law operates and the Commissioner of Taxation is an independent, statutory office holder.

The Government is following this process closely, and consulting widely with industry and other stakeholders.

As I mentioned, the Government actively encourages foreign investment and seeks to enhance the competitiveness of the financial services industry.

That's why, for example, we reduced withholding tax on fund payments from Australian managed investment trusts.

But we need to strike the right balance between achieving our goals and protecting the integrity of the tax system.

Our tax rules must be robust, so Australians know their tax system is fair and equitable. Australians expect businesses, whether large or small, to meet their tax obligations.

We will consider stakeholder views, along with advice from the Treasury and ATO before determining what action, if any, may be needed in coming months.

Consolidation

I just want to quickly give you an update on consolidation. The regime introduced in 2002 significantly reformed how we tax corporate groups. In essence, it treats corporate groups as a single entity for income tax purposes.

The Government recently introduced legislation into Parliament to improve the consolidation regime and its interactions with other parts of the income tax law.

The amendments improve business efficiency by overcoming existing barriers for consolidated groups that restructure. They also assist small business groups that wish to consolidate by improving the treatment of pre-capital gains tax membership interests held in an entity that joins a consolidated group.

Other changes overcome difficulties that arise under the capital gains tax regime when an entity joins or leaves a consolidated group.

The Board of Taxation is reviewing key elements of the consolidation regime. Its focus is on the operation of the single entity rule and the inherited history rule, interactions with other parts of the income tax law and operation of the regime for small businesses. I encourage you to participate in the Board's consultation processes and look forward to the Board's report later this year.

Proposed changes to the scrip-for-scrip rules

Earlier this year, I announced the Government would make it easier for takeovers and mergers regulated by the *Corporations Act 2001* to qualify for the capital gains tax scrip for scrip roll-over.

This change applies from the 6th of January 2010.

The scrip for scrip roll-over ensures capital gains tax does not impede takeovers and mergers. Taxpayers can exchange shares in one company for shares in another, and not immediately realise any capital gains from this exchange.

For the rollover, members of the target entity must be able to participate in the merger or takeover on substantially the same terms. This is different to the member participation requirements in the Corporations Act.

As a result, a merger that meets the Corporations Act requirements may not qualify for the scrip for scrip rollover.

As a result of the announced changes, takeovers and mergers will not have to satisfy this rollover requirement when the arrangement is approved under the Corporations Act.

The Government consulted widely on these changes and will consult on the draft legislation.

Managed Investment Trusts

Recently, the Government took another step to reform the tax arrangements applying to managed funds. On the 10th of February, we introduced legislation into Parliament to allow eligible managed investment trusts to elect to apply capital gains tax (capital account) treatment to gains and losses made on disposals of certain assets, primarily shares, units and real property.

These changes, announced in the last Budget, implement the Board of Taxation's interim advice arising from its review of the tax arrangements applying to managed investment trusts.

The deemed capital account treatment for eligible managed investment trusts reduces complexity and compliance costs, and boosts the local industry's global competitiveness.

The Government consulted widely, and the capital election reform is more wide-reaching and effective than the measure announced in the Budget.

The Government is considering the Board of Taxation's final report on the taxation of managed investment trusts and will announce its response in due course.

Tax Agents regime

The new tax agent services regime, which has been up and running for a little over a month now, is another good example of substantive tax reform. The new regime, tailored to Australia's modern tax and commercial environment, significantly benefits both consumers and taxation service providers.

The regime makes consumers more confident that the services they receive are reliable and the industry deserves its reputation for professionalism and excellence.

Inevitably, transitional issues are associated with the start of any significant reform. So it is timely to remind you that the new regime includes provisions to facilitate the smooth entry of both existing and new agents, including BAS agents.

You can get more information from the Tax Practitioner Board's website.

The Government is also continuing to work with the Board and stakeholders to resolve some remaining issues about the intended operation of the regime.

MIS tax clawback

I will now turn to the changes for forestry managed investment schemes. In October last year, I announced the Government would amend the tax law to protect around 19,000 investors in forestry managed investment schemes from an unintended and adverse tax outcome.

This outcome arose because investors had to hold their forestry interests for at least 4 years to claim and retain a tax deduction.

While this 4-year holding period rule is an important integrity measure, it can also apply in circumstances that are outside the investor's control.

For example, Timbercorp and Great Southern collapsed last year, leaving a number of forestry managed investment schemes to be wound up or restructured. This could cause initial investors to fail the rules and lead to the clawback of previously claimed tax deductions.

Denying deductions in these circumstances would unduly penalise investors.

So initial investors' deductions will be allowed to stand if:

- they fail the 4-year rule because a capital gains tax event happens due to circumstances outside their control; and
- they could not have reasonably foreseen this capital gains tax event happening, at the time they acquired the forestry interest.

The legislation also amends promoter penalty provisions.

CONCLUSION

As you can see, the tax reform agenda is very full. I am very aware that as tax professionals, you are concerned about the increasing complexity of tax arrangements and volume of tax law.

I want to end by assuring you that the Government is also very concerned about these matters. That is why we commissioned the independent tax review into the entire tax system.

We want to make Australia's tax system fairer and simpler. We want to make Australia's tax system sustainable. We want to ensure that Australia's tax system supports productivity and helps to drive economic growth.

Most importantly, we want Australia's tax system to maximise the benefits from our outstanding national wealth for all Australians.