

THE BOARD OF TAXATION

2003-04 ANNUAL REPORT

OCTOBER 2004

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INTRODUCTION

The Board of Taxation is a non-statutory body charged with advising the Government on the development and implementation of taxation legislation and the ongoing operation of the tax system. The Treasurer has placed particular emphasis on the Board's role in facilitating full and effective community consultation in the implementation of tax policy decisions.

The Board comprises ten members, seven of whom, including the Chairman, Mr Richard Warburton, have been appointed from the non-government sector. There are three *ex officio* members — the Secretary to the Australian Treasury, the Commissioner of Taxation and the First Parliamentary Counsel. Further details on the membership of the Board are at Appendix A. The Board is supported by a small Secretariat located in the Treasury.

The operations of the Board are governed by its Charter, including the Mission and Functions shown below. The Charter is reproduced in full at Appendix B.

The Board's mission

Recognising the Government's responsibility for determining taxation policy and the statutory role of the Commissioner of Taxation, the Board's mission is to contribute a business and broader community perspective to improving the design of taxation laws and their operation.

The Board's functions

The Board provides advice to the Treasurer on:

- the quality and effectiveness of tax legislation and the processes for its development, including the processes of community consultation and other aspects of tax design;
- improvements to the general integrity and functioning of the taxation system;
- research and other studies commissioned by the Board on topics approved or referred by the Treasurer; and
- other taxation matters referred to the Board by the Treasurer.

ACTIVITIES OF THE BOARD IN 2003-04

Overview

During 2003-04, the Board provided advice to the Government on a number of significant projects. These were:

- Consultation on the Definition of a Charity — report provided to the Government in December 2003 and released publicly in May 2004; and
- Post-implementation Review of the Quality and Effectiveness of the Non-commercial Losses Legislation — report provided to the Government in June 2004.

The Charities Consultation report is available on the Board's website at: <http://www.taxboard.gov.au/content/publications.asp>.

In March 2004, the Board undertook a self-assessment of its performance and processes since its establishment in September 2000. A key conclusion was that it should now give greater emphasis to the second aspect of its Charter: to provide advice to the Treasurer on improvements to the general integrity and functioning of the taxation system. As at the end of 2003-04, the Board's consideration of a possible future work program was well advanced, with decisions expected to be announced in the first half of 2004-05 following consultation with Government.

Valuable suggestions for issues the Board could consider including in its work program were provided by stakeholders from the business sector, tax practitioner groups and the wider community, and by members of the Board's Advisory Panel. The Board's extensive program of stakeholder consultations during 2003-04 also provided other useful input on the operation of the tax system.

Meetings

The Board met on ten occasions during 2003-04, as shown in the following table. Details of Board members' attendance at meetings are provided at Appendix C.

Activities of the Board

Table 1: Board of Taxation meetings, 2003-04

Date	Location
18 July 2003	Sydney
17 September 2003	Sydney
7 October 2003	Sydney
19 November 2003	Sydney
17 December 2003	Canberra
5 February 2004	Canberra
4 March 2004	Sydney
8 April 2004	Canberra
14 May 2004	Sydney
9 June 2004	Canberra

Advisory Panel

On 9 July 2002, the Board Chairman announced that the Board had established a high-level Advisory Panel to assist it in the general performance of its role, including its key functions of advising the Treasurer on the quality and effectiveness of tax legislation and on improvements to the integrity and functioning of the tax system.

The Panel draws together 26 of Australia's leading taxation professionals who have agreed voluntarily to contribute their knowledge and expertise in assisting the Board with its work. Panel members are appointed on the basis of their individual capabilities and expertise, and not as representatives of particular interests.

The Panel provides an important additional source of advice to that provided by the business, professional and other community representative organisations with which the Board has developed close working relationships.

Membership of the Advisory Panel will change from time to time and will be reviewed periodically by the Board. Following a review in late 2003, three members retired from the Panel and five new members were appointed. The Board wishes to place on record its appreciation for the contributions made by Panel members to the Board's work during 2003-04. Panel membership as at 30 June 2004 is set out in Appendix G.

Consultation on the definition of a charity

Following its work on this matter in 2002-03, the Board undertook consultation and called for submissions in the latter part of 2003. The Board established a Working Group comprising Ms Jane Schwager (Chair), Mr John Bronger, Ms Hilary Penfold, QC and Mr Richard Warburton to oversee this review. Assistance was provided by four external consultants.

The Board issued a press release inviting organisations within the charitable sector to take part in its consultations. The Board called for submissions through advertisements in major daily newspapers in each State and Territory. Each of the 373 individuals and organisations that had made a submission to the Government's 2001 Inquiry into the Definition of Charities and Related Organisations also received an invitation to make a submission. The Board received a total of 267 written submissions. Public submissions made to the Board as part of its consultation process are available on its website — www.taxboard.gov.au.

The Board also met with key charitable bodies and representative groups and conducted group discussions in all State and Territory capitals.

The Board's report, *Consultation on the Definition of a Charity*, was provided to the Treasurer on 19 December 2003. In its Report, the Board made a number of recommendations to enhance the workability of the draft Charities Bill 2003 and the Explanatory Material.

The Report was released publicly on 11 May 2004 when the Government announced its response.¹ The Government took advice from the Board that the draft legislation did not achieve the level of clarity and certainty that was intended to be brought to the charitable sector. The Government decided that, rather than introducing a legislative definition of a 'charity', the common law meaning would continue to apply. The Government announced, however, that it would introduce a statutory extension to the common law meaning of a charity to include non-profit child care available to the public, self-help groups with open and non-discriminatory membership, and closed or contemplative religious orders that offer prayerful intervention to the public. The *Extension of Charitable Purpose Act 2004* commenced on 1 July 2004.

¹ Treasurer's Press Release No. 31 of 11 May 2004: 'Final Response to the Charities Definition Inquiry'.

Post-implementation review of the quality and effectiveness of the non-commercial losses legislation

In 2003-04 the Board conducted its first post-implementation review, on the quality and effectiveness of the non-commercial losses measure contained in Division 35 of the *Income Tax Assessment Act 1997*. The Board established a Working Group comprising Mr Brett Heading (Chairman), Mr John Bronger and Mr Tony D'Aloisio to oversee this review.

In undertaking the review the Board focused on the extent to which the legislation:

- gives effect to the Government's policy intent, with compliance and administration costs commensurate with those foreshadowed in the Regulation Impact Statement for the measure;
- is expressed in a clear, simple, comprehensible and workable manner;
- avoids unintended consequences of a substantive nature;
- takes account of actual taxpayer circumstances and commercial practices;
- is consistent with other tax legislation; and
- provides certainty.

The non-commercial losses measure was announced by the Treasurer on 11 November 1999² as part of the Government's second stage response to the Ralph Review of Business Taxation. The policy intent is set out in the legislation which states 'The object of this Division is to improve the integrity of the taxation system by preventing losses from non-commercial activities that are carried on as businesses by individuals (alone or in partnership) being offset against other assessable income.' The legislation applies to individuals able to claim business deductions under the existing taxation law on the grounds they are carrying on a business and meet all the existing tests of deductibility.

The policy intent of this legislation is to improve the integrity of the taxation system by preventing losses from non-commercial activities that are carried on by individuals being offset against other assessable income in the year the losses arose, unless the activity passes one of the four objective tests set out in the legislation.

² Treasurer's Press Release No. 74 of 11 November 1999: 'The New Business Tax System: Stage 2 Response'.

In undertaking this review the Board sought submissions from interested stakeholders, including taxation professional bodies, peak artistic organisations and primary producer associations, and advertised the review on the Board of Taxation website. The Board also commissioned:

- a study from the Australian Taxation Studies Program (Atax), to evaluate the compliance and administration costs of the non-commercial losses legislation; and
- a study from BDO Kendalls to assess the quality and effectiveness of the legislation.

The Board also sought information on the development of the legislation and its implementation from the Treasury and the Australian Taxation Office.

The Board submitted its report to the Treasurer in June 2004.

Possible rationalisation of the two Income Tax Assessment Acts

During 2003-04, the Board continued work on a project to develop options for Ministers aimed at rationalising the 1936 and 1997 Income Tax Assessment Acts.

The Board's purpose is to see whether there are relatively straightforward options for reducing the volume of tax legislation and improving its ease of use for taxpayers, their advisers and those involved in tax administration. As well as delivering ease of use improvements in the short-term, rationalisation would provide a better platform for longer-term improvement as legislation is amended in the normal course. It could thus complement initiatives such as the Government's adoption of the principle-based approach to the design and drafting of new tax law measures in preference to long and detailed ('black letter') provisions.

It will be important that any recommendations put to the Government have the support of tax practitioners, who would be the main beneficiaries of any change in this area but would also bear any transitional costs. The Board is consulting widely on the issue, including with commercial publishers of tax legislation, to ensure that all views are taken into account. It has also had the benefit of advice from members of its expert Advisory Panel.

During 2003-04, the Board engaged a consultant to identify the inoperative provisions of the 1936 and 1997 Income Tax Assessment Acts. This step will assist consideration of rationalisation options by clarifying the scope of change and likely savings in the volume of tax legislation.

Activities of the Board

Consultation processes

Under its Charter, the Board provides advice to the Treasurer on the processes of community consultation in the development of tax legislation. In March 2002, it submitted a comprehensive report to the Treasurer on 'Government Consultation with the Community on the Development of Taxation Legislation'.

The Treasurer's Press Release of 2 May 2002 announced the Government's in-principle position in relation to community consultation in the development of tax policy and legislation. The Board was asked to undertake an ongoing role in monitoring the consultation process.

To assist the Board in this role, Treasury provides a report to the Board three times a year. The report provides details of the consultation strategy for each substantive tax proposal and the progress of that consultation. Treasury's consultation reports are now also published on the Treasury website (www.treasury.gov.au).

In addition, the Board regularly seeks the views of stakeholders in the business sector, the tax profession and the wider community on the quality and effectiveness of Treasury's consultation processes. These views assist the Board in monitoring and providing feedback to Treasury on particular consultations and on the broad design of the consultation process.

The Board of Taxation internet site

The Board of Taxation's internet site www.taxboard.gov.au provides general information on the Board, including its membership, the Board's Charter, contact details, Board press releases and Board reports to the Government. The Board makes significant use of the internet site in disseminating information to, and communicating with, the community.

THE YEAR AHEAD

The Board will continue to pursue its objectives as set out in its Charter, particularly focusing on issues relating to the general integrity and functioning of the tax system. The Board also intends to focus on three areas outlined below.

Post-implementation reviews

In 2004-05 the Board will continue with a program of post-implementation reviews to evaluate taxation legislation that has been in operation for at least two years. This timeframe will ensure that taxpayers and their advisers have had a reasonable opportunity to become familiar with its operation.

Conducting post-implementation reviews is consistent with one of the functions in the Board's Charter, namely to advise the Treasurer on 'the quality and effectiveness of tax legislation and the processes for its development, including the processes of community consultation and other aspects of tax design'. In undertaking these reviews the Board will focus on the extent to which the legislation:

- gives effect to the Government's policy intent, with compliance and administration costs commensurate with those foreshadowed in the Regulation Impact Statement for the measure;
- is expressed in a clear, simple, comprehensible and workable manner;
- avoids unintended consequences of a substantive nature;
- takes account of actual taxpayer circumstances and commercial practices;
- is consistent with other tax legislation; and
- provides certainty.

It is important to note that the Board's intention in undertaking post-implementation reviews is not to reopen debates about the merits of the policy underlying the legislation. Rather the intention is to gauge how effective the legislation has been in delivering that policy intent and to find out whether its implementation can be improved.

The year ahead

Possible rationalisation of the two Income Tax Assessment Acts

The Board will continue its work on a possible rationalisation of the 1936 and 1997 Income Tax Assessment Acts with a view to developing advice for Ministers. In the first part of 2004-05, this work will seek to further refine the distinction between the operative and inoperative provisions.

Consultation processes

The Board will continue to monitor Treasury's processes of community consultation in the development of tax legislation and maintain its own program of consultation with the business sector, tax practitioner groups and the wider community on issues falling within its Charter.

APPENDIX A: MEMBERSHIP OF THE BOARD

The Board of Taxation comprises up to ten members who are appointed by the Treasurer. Up to seven members are appointed in their personal capacity from within the business and wider community. The Secretary to the Treasury, the Commissioner of Taxation and the First Parliamentary Counsel are *ex officio* members.

Initial appointments took effect from 14 September 2000 and ran for two years. During 2003-04, Mr Tony D'Aloisio was re-appointed for a further term beginning on 16 February 2004 and ending on 31 October 2004, to align his term of appointment with those of most other non-government members. Mr Keith James was newly appointed to the Board for a two year term beginning on 1 March 2004. As First Parliamentary Counsel, Ms Hilary Penfold, QC was an *ex officio* member of the Board from its inception on 14 September 2000 until her resignation on 18 January 2004 to take up the position of Secretary, Department of Parliamentary Services in the Australian Parliament. Ms Penfold was replaced as First Parliamentary Counsel by Mr Peter Quiggin who became an *ex officio* member of the Board from 19 January 2004.

The members of the Board during 2003-04 were:

Chairman — Richard F E (Dick) Warburton

Mr Warburton is currently Chairman of Caltex Australia Ltd. His other directorships include Tandou Ltd, Nufarm Ltd, Tabcorp Holdings Ltd and Note Printing Australia Ltd. He is also Chairman and Director of HIIH Claims Support Ltd, which oversees the payments agreed to by the Commonwealth Government for HIIH policyholders who have suffered hardship due to the liquidation of HIIH, and a Director on the Advisory Board of The Garvan Research Foundation. Mr Warburton is a former Board Member of the Reserve Bank of Australia, former Chairman of the NSW Olympic Business Roundtable, a past National President of the Australian Institute of Company Directors, and a former Chairman and CEO of Du Pont Australia and New Zealand.

Mr Warburton has been Chairman of the Board since its inception in September 2000.

John Bronger

Mr Bronger is the National President of the Pharmacy Guild of Australia and a practising pharmacist of Wetherill Park, New South Wales. Mr Bronger holds a number of key positions within and outside pharmacy. Among other appointments, he is Chairman of the Australian Association of Consultant Pharmacy, a member of the Australian Pharmaceutical Advisory Committee, a Board member of Gold Cross Products and

Appendix A: Membership of the Board

Services Pty Ltd and Vice-President of the Sydney University Pharmacy Practice Foundation.

Mr Bronger has been a member of the Board since its inception in September 2000.

Michael Carmody

Mr Carmody was appointed Commissioner of Taxation in January 1993 after 25 years experience in the Australian Taxation Office (ATO). He previously worked in the Policy and Legislative area and was involved in a wide range of tax reform legislative initiatives. In 1983 he was appointed as First Assistant Deputy Commissioner before moving to become Deputy Commissioner of the ATO in Parramatta. Mr Carmody was appointed Second Commissioner in 1986 and took responsibility for the ATO's Modernisation Program in 1987, before appointment to his current position.

Mr Carmody has been an *ex officio* member of the Board since its inception in September 2000.

Tony D'Aloisio

Mr D'Aloisio is the Managing Director and Chief Executive Officer of Australian Stock Exchange Limited. He was previously the Chief Executive Partner of Mallesons Stephen Jaques. His directorships include The Australian Charities Fund and the Business Council of Australia. He is a member of the International Legal Services Advisory Council and the Chairman of its Globalisation of Legal Services Committee.

Mr D'Aloisio has been a member of the Board since August 2001.

Brett Heading

Mr Heading is a Partner and Chairman of McCullough Robertson Lawyers. He is an experienced company director, and is presently director of listed companies Chemgenex Pharmaceuticals Ltd and Village Life Ltd. He has diverse personal agribusiness interests (including cattle, vineyard, lucerne and olive operations) and is Chairman of Clovelly Estate Ltd. Mr Heading is also a member of the Takeovers Panel.

Mr Heading has been a member of the Board since its inception in September 2000.

Ken Henry

Dr Henry has been Secretary to the Treasury since April 2001. Dr Henry's experience in taxation matters began when he joined Treasury as a member of the Treasury's Taxation Policy Division from 1984 to 1986. After fulfilling various positions both inside and outside Treasury, Dr Henry returned to the Treasury in January 1994 as head of the

Appendix A: Membership of the Board

Taxation Policy Division. In August 1997 he was appointed Chairman of the Government's Taxation Task Force, responsible for providing advice to the Government on tax reform options. Dr Henry was then appointed to other executive roles before taking up his current position.

Dr Henry has been an *ex officio* member of the Board since April 2001.

Keith James (appointed March 2004)

Mr James is a partner at Hall & Wilcox Lawyers. He is a key figure in the tax advisory profession. His involvement has extended to Chairman of the Public Accountants Committee, Victorian President and National Councillor and Chairman of the Taxation Centre of Excellence for CPA Australia. Mr James was the accounting profession representative on the Commissioner of Taxation's Advisory Panel, his National Liaison Committee and the Advisory Committee on the Taxpayers Charter. He was joint Chairman of the working party on the national review of standards of the tax profession and a member of the steering committee of the Pappas Carter Report reviewing the Australian Taxation Office's large case audit program.

Mr James is an active public speaker within the industry and regularly has articles published in legal and accounting publications.

Mr James was appointed to the Board for a two year term beginning on 1 March 2004.

Chris Jordan

Mr Jordan is Chairman of KPMG's Partners in New South Wales and was previously Partner in Charge of the New South Wales Tax and Legal Division of KPMG. He is the former Chairman of the New Tax System Advisory Board and was also the State Chairman of the New South Wales Division of the Taxation Institute of Australia and a member of its Education Committee. Mr Jordan is a member of the Sydney Children's Hospital Foundation Board and Chairman of a Starlight Foundation fundraising committee.

Mr Jordan has been a member of the Board since its inception in September 2000.

Hilary Penfold, QC - First Parliamentary Counsel (resigned January 2004)

Ms Penfold joined the Office of Parliamentary Counsel in 1977. She was appointed as First Parliamentary Counsel in July 1993, and re-appointed for a further 7 years in 2000. Ms Penfold was awarded the Public Service Medal in June 2000 and appointed as a Commonwealth Queen's Counsel in May 2001. In January 2004, she was appointed as Secretary, Department of Parliamentary Services, in the Australian Parliament.

Appendix A: Membership of the Board

Ms Penfold was an *ex officio* member of the Board from its inception in September 2000 until January 2004.

Peter Quiggin - First Parliamentary Counsel (appointed January 2004)

Mr Quiggin is the First Parliamentary Counsel of the Office of Parliamentary Counsel. The Office of Parliamentary Counsel is responsible for drafting all principal legislation for the Australian Government, including all principal taxation legislation.

Mr Quiggin's 7 year appointment as First Parliamentary Counsel started on 13 May 2004 and he replaced Ms Hilary Penfold, QC. He has been a drafter with the Office of Parliamentary Counsel for about 15 years and has drafted legislation covering a wide range of topics including taxation, native title and immigration.

Prior to working at OPC, Mr Quiggin worked for a number of years with the Australian Taxation Office and the Administrative Appeals Tribunal.

Mr Quiggin became an *ex officio* member of the Board in January 2004 when he became Acting First Parliamentary Counsel. He was subsequently appointed First Parliamentary Counsel.

Jane Schwager

Ms Schwager is Chief Executive of Nonprofit Australia. She was previously Chief Executive Officer of The Benevolent Society, a major social enterprise driving social innovation, responsible for the 'Sydney Leadership' program and a wide range of community and residential programs for those in need. Prior to that, she was the Director-General of the NSW Ageing and Disability Department, and Executive Director of the NSW Social Policy Directorate where she was responsible for advising the NSW Government on its social agenda across government departments. She was a member of the 2000 Commonwealth Government Social Welfare Reference Group responsible for the groundbreaking review of the Australian welfare system. Ms Schwager serves on a number of boards in the non-profit sector including Nonprofit Australia, Social Ventures Australia, Indigenous Festivals of Australia, Sydney Foundation for Medical Research and Our Community.com advisory council.

Ms Schwager has been a member of the Board since October 2002.

Secretary to the Board of Taxation

Bruce Paine

Mr Paine has held a number of senior executive positions in the Treasury. During the period 1994-2000 he filled various roles in the business taxation policy area of Treasury and was a Team Leader in the secretariat of the Ralph Review of Business Taxation. More recently, he provided policy advice on medical indemnity issues as part of the Prime Minister's Medical Indemnity Taskforce and was part of the secretariat of the Government's Medical Indemnity Policy Review Panel that reported in December 2003.

Mr Paine was appointed Secretary to the Board in February 2004, replacing Mr Gerry Antioch who left to take up another position within Treasury.

APPENDIX B: THE BOARD'S CHARTER

Mission

Recognising the Government's responsibility for determining taxation policy and the statutory role of the Commissioner of Taxation, the Board's mission is to contribute a business and broader community perspective to improving the design of taxation laws and their operation.

Membership

The Board of Taxation will consist of up to ten members.

Up to seven members of the Board will be appointed, for a term of two years, on the basis of their personal capacity. It is expected that these members will be appointed from within the business and wider community having regard to their ability to contribute at the highest level to the development of the tax system. The Chairman will be appointed from among these members of the Board. Members may be re-appointed for a further term.

The Secretary of the Department of the Treasury, the Commissioner of Taxation and the First Parliamentary Counsel will also be members of the Board. Each may be represented by a delegate.

Function

The Board will provide advice to the Treasurer on:

- the quality and effectiveness of tax legislation and the processes for its development, including the processes of community consultation and other aspects of tax design;
- improvements to the general integrity and functioning of the taxation system;
- research and other studies commissioned by the Board on topics approved or referred by the Treasurer; and
- other taxation matters referred to the Board by the Treasurer.

Relationship to other boards and bodies

From time to time the Government or the Treasurer may establish other boards or bodies with set terms of reference to advise on particular aspects of the tax law. The Treasurer will advise the Board on a case by case basis of its responsibilities, if any, in respect of issues covered by other boards and bodies.

Report

The Chairman of the Board will report to the Treasurer, at least annually, on the operation of the Board during the year.

Secretariat

The Board will be supported by a secretariat provided by the Treasury, but may engage private sector consultants to assist it with its tasks.

Other

Members will meet regularly during the year as determined by the Board's work program and priorities.

Non-government members will receive daily sitting fees and allowances to cover travelling and other expenses, at rates in accordance with Remuneration Tribunal determinations for part-time public offices.

The Government will determine an annual budget allocation for the Board.

APPENDIX C: ATTENDANCE AT BOARD MEETINGS

Table 2: Attendance at Board meetings, 2003-04

Member	Number of meetings eligible to attend	Number of meetings attended
Mr Warburton (Chairman)	10	8
Mr Bronger	10	8
Mr Carmody (a)	10	10
Mr D'Aloisio (b)	5	4
Mr Heading	10	10
Dr Henry (a)	10	10
Mr James (c)	4	4
Mr Jordan	10	9
Ms Penfold (a), (d)	5	5
Mr Quiggin (a), (e)	5	5
Ms Schwager	10	9

(a) The Board's Charter allows for ex officio members of the Board to be represented by a delegate at Board meetings.

(b) There was a break in Mr D'Aloisio's membership of the Board between August 2003 and February 2004. He attended two Board meetings on an informal basis during this period in addition to the four meetings he attended in 2003-04 while formally a Board member.

(c) Mr James was appointed to the Board in March 2004.

(d) Ms Penfold resigned from the Board in January 2004.

(e) Mr Quiggin became an ex officio member of the Board in January 2004.

APPENDIX D: CONSULTATION BY THE BOARD

Table 3: Speeches and presentations, 2003-04

Date	Presentation	Event	Member
2 September 2003	Address on tax reform in Australia	Function connected with the 57 th Annual Conference of the International Fiscal Association (Sydney)	Richard Warburton
30 January 2004	Address on the role and current activities of the Board of Taxation	16 th Annual Conference of the Australasian Tax Teachers' Association (Adelaide)	Richard Warburton
10 February 2004	Address on the role and activities of the Board of Taxation and progress of business tax reform	2 nd Annual Australian Taxation Summit, (Sydney)	Richard Warburton
31 March 2004	After dinner speech on the role and current activities of the Board of Taxation	Taxation Institute of Australia, Queensland Division (Brisbane)	Brett Heading

Appendix D: Consultation by the Board

Table 4: Meetings with external organisations, 2003-04

Date	Attendees
17 September 2003 Board of Taxation Meeting, Sydney	Mr David Vos AM, Inspector-General of Taxation
7 October 2003 Board of Taxation Meeting, Sydney	Sir Nicholas Montagu, Chairman, UK Board of Inland Revenue, accompanied by Mr Peter Beckingham
19 November 2003 Board of Taxation Meeting, Sydney	Australian Bankers' Association
4 March 2004 Board of Taxation Meeting, Sydney	Board's Advisory Panel (Sydney and Brisbane-based members): Ms Narelle Butler Mr Alf Capito Mr Gordon Cooper, AM Assoc. Professor Chris Evans Mr Ian Farmer Mr Richard Friend Mr John Gonsalves Mr Greg Hayes Mr Paul Hooper Mr Larry Magid Dr Jeff Mann, AM Mr Curt Rendall Mr Brian Richards Mr Tony Rumble Professor Richard Vann
19 March 2004 Board Consultation Meetings, Melbourne	Board's Advisory Panel (Melbourne-based members): Ms Sarah Bernhardt Mr John Emerson, AM Mr Michael Hay Assoc. Professor Ann O'Connell Mr Brian Richards Mr Ken Spence Business Council of Australia
8 April 2004 Board of Taxation Meeting, Canberra	Australian Industry Group National Farmers' Federation Limited Small Business Coalition Australian Chamber of Commerce and Industry Australian Business Limited
14 May 2004 Board of Taxation Meeting, Sydney	The Institute of Chartered Accountants in Australia Taxation Institute of Australia CPA Australia Business Coalition for Tax Reform Corporate Tax Association

Table 5: Board of Taxation press releases, 2003-04

Number	Title	Date
12	Consultation on the Definition of a Charity	22 July 2003
13	Appointment of Secretary to the Board of Taxation	6 February 2004

APPENDIX E: CONSULTANCIES

Consultants are engaged in accordance with Treasury's policies for the engagement of consultants and contractors. These policies, which are consistent with the Chief Executive Instructions and the Commonwealth Procurement Guidelines, are outlined in the Treasury Annual Report. During 2003-04, the Board engaged seven consultancies valued at \$222,350. The actual expenditure of these consultancies in 2003-04 was \$176,268. Neither figure includes consultants' travel costs of \$10,330. The consultancies are detailed in the following table.

Table 6: Consultancies, 2003-04

Consultant	Project	Engaged Cost (\$)	Reason ¹	Procurement Method ²
Dubedi Pty Ltd for the services of Ms Denny Groth	Consultation on the definition of a charity: support Chair of Working Group in managing stakeholder representations, coordinating consultation processes, and report editing.	63,360	(b), (d)	Direct engagement
Queensland University of Technology for the services of Professor Myles McGregor-Lowndes	Consultation on the definition of a charity: advise on consultation strategies in the charitable sector; assist in report writing, high level editing, and formulation of recommendations; conduct research on charitable legal and taxation issues.	30,000	(e)	Direct engagement
Ms Marie Spencer	Consultation on the definition of a charity: summarise submissions from interested organisations.	20,790	(e)	Direct engagement
Ms Jane Pretty (JP Sustainable Solutions)	Consultation on the definition of a charity: support Working Group in the design and ongoing conduct of the consultation plan, processing and summarising submissions from interested organisations, facilitating and recording focus groups, and report editing.	19,800	(b), (d)	Direct engagement

Appendix E: Consultancies

Consultant	Project	Engaged Cost (\$)	Reason ¹	Procurement Method ²
Unisearch Ltd	Post-implementation review of the non-commercial losses provisions in Division 35 of the <i>Income Tax Assessment Act 1997</i> : conduct an evaluation of the compliance and administration costs of the provisions.	37,600	(c), (e)	Select
BDO Kendalls	Post-implementation review of the non-commercial losses provisions in Division 35 of the <i>Income Tax Assessment Act 1997</i> : conduct an evaluation of the quality and effectiveness of the provisions.	30,800	(c), (e)	Select
Creating Coherence Pty Ltd for the services of Mr Tom Reid	Identify the inoperative provisions of the 1936 and 1997 Income Tax Assessment Acts.	20,000	(e)	Direct engagement
Total consultancies		222,350		

1 Key to reasons for engagement:

- (a) need for rapid access to latest technology and expertise in its application;
- (b) specialist in-house resources unavailable in time allowed;
- (c) need for independent study;
- (d) need for change agent or facilitator;
- (e) specialist skill or knowledge not available in-house;
- (f) other.

2 Select tenders are invited from a short list of competent suppliers. This category is applied where there is a known limited market for the services required, and when value for money would not be achieved through a full open tender process. Direct engagement may include the engagement of: a consultant selected from a pre-qualified panel arrangement; a recognised and pre-eminent expert; a consultant who had previously undertaken closely related work for the Board; or a consultant known to have the requisite skills where the value of the project did not justify the expense or delay associated with seeking tenders.

APPENDIX F: FINANCIAL STATEMENTS

Table 7: Revenue, expenses and operating result

	2002-03	2003-04
Expenses	\$	\$
<i>Employee expenses(a)</i>		
Wages	309,244	395,369
Superannuation	50,448	93,617
Other employee expenses	137,642	141,125
<i>Total employee expenses</i>	497,334	630,111
<i>Other expenses</i>		
Travel(b)	80,298	82,985
Computers (non-asset)	875	359
Office machines & furniture	5,790	6
Communications	579	0
Freight and storage	6,528	0
Conferences and training	14,608	3,740
Consultants and contracts	273,432	176,268
Legal services	1,539	2,190
Office supplies	81	1,039
Advertising	8,166	9,649
Printing	43,858	190
Publications and subscriptions	3,469	2,014
Other supplier expenses	88,483	100,314
Depreciation and amortisation	1,894	4,700
<i>Total operating expenses</i>	529,600	383,455
Total expenses	1,026,934	1,013,566
Revenue		
Funding from Government	2,000,000	2,000,000
Operating surplus	973,066	986,434

- (a) The 2003-04 average staffing level of the Board Secretariat was 4.7, compared with 4.1 in 2002-03. Of total employee expenses of \$630,111 in 2003-04, \$573,756 was attributed to the Secretariat. The balance of \$56,355 comprises payments to non-Government members of the Board (the total figure of \$53,774 shown in Table 8 'Fees paid to non-Government Board members, 2003-04' plus \$2,498 in superannuation payments in respect of non-Government members who receive daily fees rather than having them paid to their employing organisations, and \$83 in meal allowances).
- (b) For 2003-04, includes travel costs of \$10,330 for consultants to the Board.

Appendix F: Financial statements

Table 8: Fees paid to non-Government Board members, 2003-04(a)

Member	\$
Mr Warburton (Chairman)	14,136
Mr Bronger	9,101
Mr D'Aloisio	2,752
Mr Heading	4,847
Mr James(b)	0
Mr Jordan	5,234
Ms Schwager	17,704
Total	53,774

(a) Members of the Board other than the three ex officio members receive daily fees for attending Board and Working Group meetings. In some cases these fees are paid to their employing organisations. With effect from 1 July 2004, daily fees were set at \$666 for the Chairman and \$503 for members. Fees at the same rates are paid where non-Government members are engaged in business of the Board other than attendance at formal meetings — such as representing the Board in meetings with external bodies, giving presentations, or working on Board reports. Non-Government members of the Board were engaged to differing degrees in these activities during 2003-04.

(b) Mr James joined the Board on 1 March 2004. No daily fees for Mr James were invoiced in 2003-04.

APPENDIX G: MEMBERS OF THE BOARD'S ADVISORY PANEL

Table 9: Members of Advisory Panel as at 30 June 2004

Panel Member:	Position, Organisation:
Associate Professor Stephen Barkoczy	Associate Professor, Business Law and Taxation, Monash University and Consultant, Blake Dawson Waldron
Ms Sarah Bernhardt	Tax Partner, Allens Arthur Robinson
Ms Narelle Butler	Chartered Accountant, Barrister
Mr Alf Capito	Partner, Ernst & Young Australia
Mr Michael Clough	Partner, Mallesons Stephen Jaques
Mr Gordon Cooper, AM	Principal, Cooper & Co
Mr John Emerson, AM	Partner, Freehills
Associate Professor Chris Evans	Director, Australian Taxation Studies Program (ATAX), University of New South Wales
Mr Ian Farmer	Partner Tax Services, PricewaterhouseCoopers
Mr Richard Friend	Partner, Ernst & Young Australia
Mr John Gonsalves	National Tax Director, Ernst & Young Australia
Mr Michael Hay	Partner, Pitcher Partners
Mr Greg Hayes	Senior Partner, Hayes Knight
Mr Emanuel Hiou	Head of Global Taxation, National Australia Bank
Mr Paul Hooper	General Manager, Tax and Finance, Lend Lease Corporation Ltd
Mr Larry Magid	Partner, Allens Arthur Robinson
Dr Jeff Mann, AM	Partner, Mallesons Stephen Jaques
Ms Louise McBride	Advisory Panel Member, Board of Taxation
Associate Professor Ann O'Connell	Faculty of Law, University of Melbourne and Special Counsel, Allens Arthur Robinson
Mr Curt Rendall	Partner, Rendall Kelly
Mr Brian Richards	Partner, BDO Kendalls
Dr Tony Rumble	Chief Executive Officer, SavingsFactory Ltd
Mr Ken Spence	Partner, Shaddick & Spence
Mr David Stevens	Partner, Tax Strategy & Policy, KPMG
Mr Robert Upfold	Executive Director, Macquarie Bank Limited
Professor Richard Vann	Challis Professor of Law, University of Sydney

