

THE BOARD OF TAXATION

2005-06 ANNUAL REPORT

OCTOBER 2006

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CONTENTS

INQUIRIES	V
INTRODUCTION.....	1
The Board's mission	1
The Board's functions	1
ACTIVITIES OF THE BOARD IN 2005-06	3
Overview	3
Meetings	4
Post-implementation review of the quality and effectiveness of the small business capital gains tax (CGT) concessions	5
Identification and possible repeal of the inoperative provisions of the two Income Tax Assessment Acts	7
Review of international consultation processes	9
Scoping study of tax compliance costs facing the small business sector	9
Consultation.....	10
Advisory Panel	11
The Board of Taxation website	11
THE YEAR AHEAD.....	13
Consultation.....	13
Review of international consultation processes	14
Scoping study of tax compliance costs facing the small business sector	14
Post-implementation reviews	14
Rationalisation of the two Income Tax Assessment Acts	15

Contents

APPENDICES

Appendix A: Membership of the Board.....	17
Appendix B: The Board's Charter	23
Appendix C: Attendance at Board meetings	27
Appendix D: Consultation by the Board	29
Appendix E: Consultancies.....	31
Appendix F: Financial Statements	33
Appendix G: Members of the Board's Advisory Panel	35

LIST OF TABLES

Table 1: Board of Taxation meetings, 2005-06.....	4
Table 2: Attendance at Board meetings, 2005-06	27
Table 3: Speeches and presentations, 2005-06	29
Table 4: Meetings with external organisations, 2005-06	29
Table 5: Consultancies over \$10,000 in 2005-06	31
Table 6: Revenue, expenses and operating result.....	33
Table 7: Fees paid to non-Government Board members, 2005-06	34
Table 8: Members of Advisory Panel as at 30 June 2006.....	35

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INTRODUCTION

The Board of Taxation is a non-statutory advisory body charged with contributing a business and broader community perspective to improving the design of taxation laws and their operation. The Treasurer has placed particular emphasis on the Board's role in monitoring the process of community consultation on tax matters.

The Board comprises ten members, seven of whom, including the Chairman, Mr Richard Warburton AO, 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 roles of the Commissioner of Taxation and the Inspector-General 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;

Introduction

- 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 2005-06

Overview

During 2005-06, the Board reported to the Government on:

- its post-implementation review of the quality and effectiveness of the small business capital gains tax (CGT) concessions in Division 152 of the *Income Tax Assessment Act 1997*. The report was released, together with the Government's response, on 9 May 2006 and is available on the Board's website: www.taxboard.gov.au;
- the identification and possible repeal of the inoperative provisions of the *Income Tax Assessment Act 1936* and the *Income Tax Assessment Act 1997*. On 24 November 2005 the Government released the Board's report and announced, subject to further consultation, its intention to repeal the inoperative provisions identified by the Board. The Board's report is available on its website. Following consultation on the draft legislation, the Treasurer introduced the Tax Laws Amendment (Repeal of Inoperative Provisions) Bill 2006 into Parliament on 22 June 2006. The Bill was passed, without amendment, by both Houses of Parliament and received Royal Assent on 14 September 2006.

The Board also made significant progress on two other projects:

- a review, in conjunction with Treasury, of international tax consultation processes with a view to identifying any improvements to the Australian system; and
- a scoping study of tax compliance costs facing the small business sector to identify the more important areas where compliance costs might be reduced.

During 2006, the Board undertook a self assessment of its performance and processes since its last review in 2004. Building on its previous assessment that it should give greater emphasis to providing advice to the Treasurer on

Activities of the Board

improvements to the general integrity and functioning of the taxation system, the Board saw a role for itself in more proactively identifying and synthesising issues. This will require greater emphasis on its stakeholder consultation program.

In addition, the Board continued its monitoring of the processes of community consultation in the development of tax legislation, and continued its own consultations with stakeholders from the business sector, tax practitioner groups and the wider community on issues coming within the Board's Charter.

Meetings

The Board met on 11 occasions during 2005-06, as shown in the following table. To engage better with stakeholders across the country, for the first time the Board held one of its meetings in Perth during 2005-06. While in Perth, Board members met with a range of stakeholders in the tax professional and business community. Details of Board members' attendance at meetings are provided at Appendix C.

Table 1: Board of Taxation meetings, 2005-06

Date	Location
1 July 2005	Brisbane
5 August 2005	Sydney
2 September 2005	Canberra
14 October 2005	Sydney
4 November 2005	Melbourne
2 December 2005	Sydney
3 February 2006	Sydney
10 March 2006	Perth
3 April 2006	Canberra
19 May 2006	Sydney
16 June 2006	Melbourne

Post-implementation review of the quality and effectiveness of the small business capital gains tax (CGT) concessions

The Board submitted its report to the Government on its post-implementation review of the small business capital gains tax (CGT) concessions in Division 152 of the *Income Tax Assessment Act 1997* in October 2005.

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

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

The Board noted that the introduction of Division 152 has had a positive impact on the availability of concessions under the CGT system for eligible small business entities. This is consistent with the objectives of providing a choice of concessions based on the same underlying criteria, permitting multiple application of the concessions to one transaction so that their benefit is maximised, and allowing eligible small business entities to use significant amounts of their capital gains for funding their retirement in a largely tax free manner or towards investing in more business assets.

In assessing the provisions of Division 152, the Board concluded that, on the whole, the Division generally met the review criteria. However, it recommended some amendments, both legislative and administrative, to ensure the Division operated better to fulfil its objectives of providing significant CGT concessions to eligible small business entities.

Assessment against the review criteria

The review found that:

- Division 152 gave effect to the overall policy to provide significant relief from the CGT system for eligible small business entities, by providing a range of significant and relatively easily accessed benefits for eligible small business entities,
 - The review suggested the concessions, while not imposing significant compliance costs on taxpayers, may be a compliance cost issue for tax practitioners;
- Division 152 was generally expressed in a workable manner. However, there were a number of important concepts in the provisions which required clarification. Much of this clarification could be achieved by the publication of rulings, practice statements or other forms of guidance by the Australian Taxation Office (Tax Office);
- there were no significant unintended consequences, with the small business CGT concessions being generally available to the group of taxpayers intended to benefit most from them. However, some businesses had difficulty in accessing the concessions due to structures that pre-dated the introduction of the concessions;
- the small business CGT concessions were consistent with the commercial practices of most small businesses and applied in an easy and workable way to the majority of straightforward transactions entered into by eligible small business entities. However, some businesses had difficulty accessing the concessions in circumstances where transactions pre-dated the introduction of the Division;
- there was a high level of consistency at a general level. However, some inconsistencies were identified with other aspects of the CGT legislation, other income tax law, and superannuation and related provisions; and
- the operation of the provisions in uncomplicated situations is clear and provides certainty of outcomes, particularly where the relevant taxpayer is 55 or over. However, some uncertainty was identified in a number of areas, including where there was a test to be applied over time, or where the meaning of various concepts was not clear.

The Board's recommendations

The Board has made a total of 39 recommendations (26 legislative and 13 administrative), over half of which sought to address issues relating to the net asset and active asset tests. The majority of the remaining recommendations sought to clarify issues relating to the retirement exemption and small business CGT affiliates. These recommendations covered two broad areas:

- fine-tuning a small number of the provisions relating to the application of the eligibility criteria to improve the current outcomes of the legislation; and
- minor legislative changes to address unintended consequences and administrative changes to assist understanding of the law.

The Board considered its recommendations would reduce complexity and compliance costs. This could have wider benefits, by lowering, at the margin, the transactions costs of generating employment and investment returns in small businesses.

The Government's response

On 9 May 2006 the Government announced that it had accepted all but one of the Board's 26 recommendations for legislative amendments (three with minor amendments favouring the taxpayer) and that the Tax Office had accepted the 13 recommendations relating to administrative matters.

The Board's report, its recommendations, the submissions made to the review and the Government's response to the report, are available on the Board's website.

Identification and possible repeal of the inoperative provisions of the two Income Tax Assessment Acts

The Board submitted its report to the Government on the identification and possible repeal of the inoperative provisions of the two Income Tax assessment Acts in October 2005. The report identified a substantial number of inoperative provisions in the *Income Tax Assessment Act 1936* and the *Income Tax Assessment Act 1997* that could be repealed without changing the effect of the law.

Activities of the Board

Community stakeholders, including tax practitioners and the two main tax publishers, supported the Board's work in this area which is aimed at 'uncluttering' and improving the ease of use of the income tax law, contributing to the reduction of complexity and compliance costs.

The Board undertook a rigorous process to ensure, as far as possible, that operative provisions were not incorrectly repealed with unintended consequences for taxpayers or the revenue. This process involved extensive community consultation and engaging relevant tax experts to check the integrity of the processes for identifying the inoperative provisions and the cross-checking of these provisions for references to them in other Commonwealth legislation.

The Board's recommendations

The Board identified an estimated 2,135 pages of inoperative provisions in the 1936 and 1997 Income Tax Assessment Acts and recommended that the Government repeal these provisions after appropriate checking and public consultation on the draft legislation.

The Board also recommended that the tax publishers be asked to move repealed provisions of the two Acts from their annual publications into less frequently published hard copy or on-line archive volumes.

The Government's response

In November 2005, the Treasurer announced that the Government had accepted the Board's recommendations. In April 2006 the Treasurer released draft legislation containing proposals to repeal more than 4,100 pages from Australia's tax legislation. In addition to provisions originally identified as inoperative by the Board, the Government has identified 500 more pages of inoperative provisions in the income tax law and 1,500 pages of inoperative tax Acts (such as, Sales Tax Acts). Following consultation on the draft legislation, the Treasurer introduced the Tax Laws Amendment (Repeal of Inoperative Provisions) Bill 2006 into Parliament on 22 June 2006. The Bill was passed, without amendment, by both Houses of Parliament and received Royal Assent on 14 September 2006.

Review of international consultation processes

In 2004-05, the Board, in conjunction with Treasury, commenced a review of international consultation processes with a view to identifying any improvements to the Australian system. The review follows the Treasurer's agreement to Recommendation 7.1 in Treasury's final report on the *Review of Aspects of Income Tax Self Assessment*.¹

During 2005-06 the Board and Treasury have made substantial progress with this review. There has been consultation with a broad range of stakeholders, including both small and large business, the not-for-profit sector, professional and industry associations and the government sector. Tax consultation processes that are used in a number of comparator countries are also being examined. The Board expects to report to Government on this review towards the end of 2006.

Scoping study of tax compliance costs facing the small business sector

On 4 November 2005 the Treasurer asked the Board to undertake a scoping study of tax compliance costs facing the small business sector to identify the more important areas where compliance costs might be reduced.

The Board is working closely with small businesses (especially micro business) in order to identify and analyse the main costs they face in complying with taxes administered by the Australian Taxation Office.

In preparing its report the Board is taking into account:

- the purpose and object of the law;
- the relationship between taxpayer compliance costs and government administration costs;

¹ See Treasury's final report on the *Review of Aspects of Income Tax Self Assessment*, August 2004, which is available on the Treasury website, www.treasury.gov.au.

Activities of the Board

- costs incurred by business for non-tax reasons and any additional costs incurred by businesses or their advisors for tax reasons (tax compliance costs);
- transitional costs and ongoing tax compliance costs;
- taxpayer circumstances and commercial practices;
- other legislation; and
- any other matters the Board considers materially impact on small business tax compliance costs.

The Board has received a number of written submissions and held preliminary consultation meetings. The Board also commissioned the University of New South Wales' Australian School of Taxation (Atax) to identify and describe small business compliance costs in qualitative terms. Atax has been asked to identify comprehensively and rank sources of small business compliance costs, with a particular focus on tax compliance costs, and prepare a report for the Board.

Using the results of the Atax consultancy, the Board will commence a broader consultation process in the second half of 2006. The Board expects to complete its report towards the end of 2006.

Consultation

During 2005-06 the Board continued with its ongoing role in monitoring the processes of community consultation on the development of new tax legislation. To facilitate this oversight role, the Board receives a report from Treasury on consultation on announced tax measures three times a year. In addition, the Board's monitoring role included:

- observing consultation on the development of legislation to implement stages 3 and 4 of the taxation of financial arrangements under the principles-based design approach; and
- receiving detailed presentations from Treasury on specific consultations.

The Board undertakes a program of regular consultation with external stakeholders, including members of its Advisory Panel, on issues falling within its Charter. Formal consultation meetings held in 2005-06 are shown in Table 4 at Appendix D. In the second half of 2005-06 consultations were focused on the review of international consultation processes, rather than on more general issues associated with the integrity and functioning of the taxation system. Less formal consultation also occurs.

Advisory Panel

In July 2002, the Board established an Advisory Panel to assist it in the general performance of its role. The Panel currently comprises 25 taxation professionals who have agreed to assist the Board voluntarily 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 additional source of advice to that provided by the business, professional and other community representative organisations that the Board has developed close working relationships with.

Membership of the Advisory Panel changes from time to time and is reviewed periodically by the Board. Following a review in late 2005, two members retired from the Panel and two new members were appointed. The Board wishes to record its appreciation for the contributions made by Panel members to the Board's work during 2005-06. Panel membership as at 30 June 2006 is set out at Appendix G.

The Board of Taxation website

The Board of Taxation's website 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 YEAR AHEAD

The Board will continue to pursue its objectives as set out in its Charter, including issues relating to the general integrity and functioning of the tax system. Specifically, the Board intends to focus on the areas outlined below, in addition to any other matters referred to it by the Treasurer.

Consultation

Under its Charter, the Board provides advice to the Treasurer on the processes of community consultation in the development of tax legislation. In 2002, the Board submitted a report to the Treasurer on *Government Consultation with the Community on the Development of Taxation Legislation*.¹ Following that report, the Treasurer 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 regular report on the consultation strategy for each substantive tax proposal and the progress of that consultation. Treasury's consultation reports are published on the Treasury website (www.treasury.gov.au).

The Board also regularly seeks the views of stakeholders in the business sector, the tax profession and the wider community on the quality and effectiveness of the consultation processes.

During 2006-07, the Board will continue to undertake this ongoing role in monitoring the consultation process in the development of tax legislation, including consultation on the taxation of financial arrangements stages 3 and 4. In particular, the Board will be focusing on the quality as well as the extent of consultation on tax proposals.

1 Available on the Board's website.

The year ahead

In addition, the Board will maintain its own program of consultation with the business sector, tax practitioner groups and the wider community on issues falling within its Charter. As noted, during 2006-07 the emphasis of the Board will be on more proactively identifying and synthesising stakeholder concerns with the general integrity and functioning of the taxation system.

Review of international consultation processes

As noted above, the Board has made good progress with the review, in conjunction with Treasury, of international consultation processes, with a view to identifying any improvements to the Australian system of tax consultation. The Board expects to complete this review towards the end of 2006.

Scoping study of tax compliance costs facing the small business sector

As noted, the Board is making progress with the scoping study of tax compliance costs facing the small business sector and expects to commence a broader consultation process in the second half of 2006.

The review is not intended to make specific recommendations to reduce small business tax compliance costs. Rather, it will identify the key areas where there are compliance cost concerns and where further work may be required.

Post-implementation reviews

The Board also intends to continue to pursue post-implementation reviews in areas approved by the Treasurer. The Board sees such reviews as an important way in which it can meet its Charter of improving the general integrity and functioning of the taxation system, particularly by focusing on areas where compliance cost savings may be possible.

Rationalisation of the two Income Tax Assessment Acts

The Board will continue to monitor processes for rationalising the two income tax Acts.

APPENDIX A: MEMBERSHIP OF THE BOARD

The Board of Taxation comprises up to ten members appointed by the Treasurer. A maximum of seven members are appointed in their personal capacity from within the business and wider community. The Secretary to the Australian 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. Currently, members may be appointed for a term of up to three years. During 2005-06, the Treasurer reappointed Mr Keith James for a two-year term ending on 14 January 2008.

The members of the Board during 2005-06 were:

Chairman — Richard F E (Dick) Warburton AO

Mr Warburton is currently Chairman of Caltex Australia Ltd. His other directorships include Citibank Pty Ltd, Tandou Ltd, Nufarm Ltd, Tabcorp Holdings Ltd, Magellan Flagship Fund Ltd and Note Printing Australia Ltd. He is also 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.

Deputy Chairman — Chris Jordan AO

Mr Jordan is Chairman of KPMG 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

Appendix A: Membership of the Board

member of the Sydney Children's Hospital Foundation Board and was recently appointed to the Board of the Bell Shakespeare Company. He has also been appointed by the NSW Minister for Tourism and Sport and Recreation, Sandra Nori, to the Games Advisory Committee of the Sydney 2009 World Masters Games.

Mr Jordan has been a member of the Board since its inception in September 2000. He was appointed to the new position of Deputy Chairman in January 2005.

Michael D'Ascenzo (from 1 January 2006)

Mr D'Ascenzo was appointed Commissioner of Taxation on 1 January 2006.

After joining the Tax Office in 1977, Mr D'Ascenzo worked in the area of tax avoidance schemes before moving on to head up recoupment tax, then international operations. He then introduced the large case program, auditing Australia's top 100 companies.

Mr D'Ascenzo led the improvements to the self-assessment system in 1992, and worked to raise the standard of tax technical decisions as Chief Tax Counsel. Before being appointed Commissioner, Mr D'Ascenzo was Second Commissioner since 1998 focusing on interpretation and implementation of tax laws, corporate planning, finance and governance.

Mr D'Ascenzo became an ex officio member of the Board on his appointment as Commissioner of Taxation on 1 January 2006.

Michael Carmody, AO (until 31 December 2005)

Mr Carmody was appointed Commissioner of Taxation in January 1993 after 25 years experience in the Tax Office. 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 Tax Office in Parramatta. Mr Carmody was appointed Second Commissioner in 1986 and took responsibility for the ATO's Modernisation Program in 1987, prior to his appointment as Commissioner in January 1993.

Mr Carmody was an ex officio member of the Board from its inception in September 2000 until 31 December 2005 when he took up the position of Chief Executive Officer of the Australian Customs Service.

Brett Heading

Mr Heading is a Partner and Chairman of McCullough Robertson Lawyers. He is a corporate lawyer advising on mergers and acquisitions, corporate governance and capital raising particularly for emerging companies. He is also an experienced company director, and is presently Chairman of the listed ChemGenex Pharmaceuticals Ltd and the unlisted Peanut Company of Australia Ltd. He has diverse personal agribusiness interests (including cattle, vineyard, lucerne and olive operations) and is Chairman of wine producer Clovely 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 Australian 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 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

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, the National Liaison Committee and the Advisory Committee on the Taxpayers Charter. He was joint Chairman of the working

Appendix A: Membership of the Board

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 Tax 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 has been a member of the Board since March 2004.

Eric Mayne

Mr Mayne was appointed to the position of Group Executive Market Supervision (now known as the Chief Supervision Officer) at the Australian Stock Exchange in May 2005. Mr Mayne is a former Partner of Mallesons Stephen Jaques where he was responsible nationally for the firm's indirect taxation practice. His practice concentrated on the goods and services tax, customs and excise duty, sales tax, anti dumping, energy credits, and pay-roll tax and indirect tax litigation. He has spoken at many public seminars on GST, sales tax and customs duty and written extensively in these areas. Mr Mayne also was the National Managing Partner at Mallesons between 2000 and 2004.

Mr Mayne was a member of the GST Technical Committee which advised the Treasury and the Tax Office on GST issues prior to and following the introduction of the GST on 1 July 2000. He also was an external member on the Tax Office GST Public Rulings Panel during the implementation of the GST. In addition, he advised the Tax Office on sales tax reform (including the simplification of the Sales Tax legislation in 1992).

Mr Mayne also is the Chair of the ASX Corporate Governance Council and is a member of the Financial Reporting Council.

Mr Mayne has been a member of the Board since January 2005.

Peter Quiggin — First Parliamentary Counsel

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 seven year appointment as First Parliamentary Counsel started on 13 May 2004. 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 Tax Office and the Administrative Appeals Tribunal.

Mr Quiggin has been an ex officio member of the Board since January 2004.

Curt Rendall

Mr Rendall is the Senior Partner of Rendall Kelly Chartered Accountants.

He was previously a member of the Dawson Review, Chairman of the Federal Government's Small Business Consultative Committee and Deputy Chairman of the New Tax System Advisory Board. He has also been Chairman of the Institute of Chartered Accountants Small and Medium Enterprises Committee as well as a Member of the Small Business Development Corporation of New South Wales. His most recent Government appointment has been as an Associate Commissioner of the Productivity Commission undertaking an enquiry into the relationships between participants in the smash repair industry.

Mr Rendall has been a member of the Board since January 2005.

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 policy 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 and Sydney Foundation for Medical Research.

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

Secretary to the Board of Taxation

Sue Vroombout (from June 2006)

Ms Vroombout has held a number of senior positions in the Treasury and the Attorney-General's Department. Ms Vroombout first became involved in taxation matters when she joined the Taxation Policy Division of Treasury in 1987. Ms Vroombout has also worked in a number of other areas of public policy, including business and financial markets regulation and administrative law. She has secretariat experience from her role as Secretary to the Ministerial Council for Corporations in the early 1990s.

Ms Vroombout was appointed Secretary to the Board in June 2006, replacing Mr Bruce Paine who has taken up another position within Treasury.

Bruce Paine (until June 2006)

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.

Mr Paine was Secretary to the Board from February 2004 to June 2006.

APPENDIX B: THE BOARD'S CHARTER

Mission

Recognising the Government's responsibility for determining taxation policy and the statutory roles of the Commissioner of Taxation and the Inspector-General 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 by the Treasurer, for a term of up to three 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 by the Treasurer from among these members of the Board. If the Treasurer decides to appoint a Deputy Chairman, he or she will also be appointed from among these members of the Board. Members may be re-appointed.

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 officers.

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

APPENDIX C: ATTENDANCE AT BOARD MEETINGS

Table 2: Attendance at Board meetings, 2005-06

Member	Number of meetings eligible to attend	Number of meetings attended
Mr Warburton (Chairman)	11	10
Mr Jordan (Deputy Chairman)	11	10
Mr D'Ascenzo ^{(a)(b)}	5	5
Mr Carmody ^{(a)(b)}	6	5
Mr Heading	11	10
Dr Henry ^(a)	11	11
Mr James	11	11
Mr Mayne	11	10
Mr Quiggin ^(a)	11	11
Mr Rendall	11	10
Ms Schwager	11	11

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

(b) Mr D'Ascenzo replaced Mr Carmody as Commissioner of Taxation from 1 January 2006.

APPENDIX D: CONSULTATION BY THE BOARD

Table 3: Speeches and presentations, 2005-06

Date	Presentation	Event	Member
5 November 2005	Address on the role of the Board of Taxation and how it is helping the tax system	Taxpayers Australia National Conference 2005, (Melbourne)	Keith James

Table 4: Meetings with external organisations, 2005-06

Date	Attendees
1 July 2005 Board of Taxation Meeting, Brisbane	Brisbane-based members of the Board's Advisory Panel Members of the Brisbane business and tax advising community
14 October 2005 Board of Taxation Meeting, Sydney	Sydney and Brisbane-based members of the Board's Advisory Panel Australian Chamber of Commerce and Industry David Vos AM, Inspector-General of Taxation <ul style="list-style-type: none"> The Special Tax Adviser, Commonwealth Ombudsman's Office
4 November 2005 Board of Taxation Meeting, Melbourne	Melbourne-based members of the Board's Advisory Panel Corporate Tax Association
2 December 2005 Board of Taxation Meeting, Sydney	National Tax & Accountants' Association Taxpayers Australia Taxation Institute of Australia
10 March 2006 Board of Taxation Meeting, Perth	Members of the Perth business and tax advising community

Table 4: Meetings with external organisations, 2005-06 (continued)

Date	Attendees
27 to 30 March 2006 Board working group consultation meetings for the review of international consultation processes project	Sydney and Brisbane-based members of the Board's Advisory Panel The Australian Stock Exchange Officials from the: <ul style="list-style-type: none"> • Australian Prudential Regulatory Authority • Australian Securities and Investment Commission • Inspector General of Taxation • Australian Accounting Standards Board • NSW Office of State Revenue • NSW Office of Financial Management Various business associations Various not for profit organisations Major law and accounting firms
3 to 5 April 2006 Board working group consultation meetings for the review of international consultation processes project	Various business associations Officials from: <ul style="list-style-type: none"> • The Treasury • Australian Taxation Office
10 to 11 April 2006 Board working group consultation meetings for the review of international consultation processes project	Melbourne-based members of the Board's Advisory Panel Taxation professional bodies Various major corporations Officials from Victoria's State Revenue Office
1 to 3 May 2006 Board working group consultation meetings for the review of international consultation processes project	New Zealand business associations New Zealand major law and accounting firms Officials from the New Zealand Treasury and the Inland Revenue Department
18 May 2006 Board working group consultation meetings for the review of international consultation processes project	CEOs of various tax and legal professional bodies Members of the Australian Taxation Office's Software Developers Consultative Group

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 2005-06, the Board engaged one consultancy for an amount over \$10,000, for a total value of \$78,114. Details of this consultancy are in Table 6. The actual expenditure for this consultancy, consultancies completed in 2005-06 and for payments made to service providers in 2005-06 was \$168,648 (GST exclusive).

Table 5: Consultancies over \$10,000 in 2005-06

Consultant	Project	Engaged Cost (\$)	Procurement Method ¹	Reason ²
University of NSW	Identify and describe small business compliance costs (with a particular emphasis on tax compliance costs) in qualitative terms.	78,114	Open	(e)
Total consultancies over \$10,000		78,114		

Note — All amounts are GST inclusive.

- (1) Explanation of selection process terms:
- i Direct engagement includes 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 department; 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.
 - ii 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.
 - iii Open tender.
- (2) Justification of decision to use consultancy:
- (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 an independent study or review.
 - (d) Need for a change agent or facilitator.
 - (e) Specialist skills or knowledge not available in-house.

APPENDIX F: FINANCIAL STATEMENTS

Table 6: Revenue, expenses and operating result

	2004-05	2005-06
	\$	\$
Revenue		
Funding from Government	2,000,000	2,000,000
Services provided free of charge		73,636
Revenue — Other		30
Total revenue	2,000,000	2,073,666
Expenses		
Employee expenses ^(a)		
Wages	342,096	265,368
Superannuation	112,367	100,811
Other employee expenses	118,050	135,792
Total employee expenses	572,513	502,151
Other expenses		
Travel	49,192	128,415
Office machines and furniture	91	
Communications		31
Conferences and training	3,842	17,823
Consultants and contracts	470,987	168,648
Contractors and seconded employees		73,636
Office supplies	257	806
Publications and subscriptions	1,464	1,831
Other supplier expenses ^(b)	99,058	101,040
Total operating expenses	624,891	492,230
Total expenses	1,197,404	994,381
Operating surplus	802,596	1,079,286

(a) The 2005-06 average staffing level of the Board secretariat was 2.8, compared with 4.0 in 2004-05. Of total employee expenses of \$502,151 in 2005-06, \$430,329 was attributed to the Secretariat. The balance of \$71,822 comprises payments to non-Government members of the Board (the total figure of \$68,981 shown in Table 7 'Fees paid to non-Government Board members, 2005-06' plus \$2,841 in superannuation payments in respect of non-Government members who receive daily fees rather than having them paid to their employing organisations).

(b) Other supplier expenses mainly consist of a payment made to Treasury for corporate support of the Board and the Secretariat. In 2005-06 this payment was \$100,000.

Table 7: Fees paid to non-government Board members, 2005-06^(a)

Member	\$
Mr Warburton (Chairman)	17,170
Mr Heading	3,665
Mr James	13,708
Mr Jordan	6,267
Mr Mayne	8,657
Mr Rendall	8,300
Ms Schwager	11,214
Total	68,981

(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 2005, daily fees were set at \$694 for the Chairman and \$524 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 2005-06.

APPENDIX G: MEMBERS OF THE BOARD'S ADVISORY PANEL

Table 8: Members of Advisory Panel as at 30 June 2006

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	Barrister and Chartered Accountant
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
Professor Chris Evans	Australian School of Taxation (Atax), University of New South Wales
Mr Ian Farmer	Partner Tax Services, PricewaterhouseCoopers
Mr Richard Friend	Babcock & Brown Pty Ltd
Mr Mark Friezer	Partner, Clayton Utz
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 Group Taxation, National Australia Bank
Mr Paul Hooper	General Manager, Tax and Finance, Lend Lease Corporation Ltd
Mr Larry Magid	Partner, Allens Arthur Robinson
Professor Myles McGregor-Lowndes, OAM	Director, Centre of Philanthropy and Nonprofit Studies, Faculty of Business, Queensland University of Technology
Associate Professor Ann O'Connell	Faculty of Law, University of Melbourne and Special Counsel, Allens Arthur Robinson
Mr Frank O'Loughlin	Barrister
Mr Brian Richards	Partner, BDO Kendalls
Dr Tony Rumble	Chief Executive Officer, SavingsFactory Ltd
Mr Ken Schurgott	Partner, Cosoff Cudmore Knox
Mr Ken Spence	Partner, Shaddick & Spence
Mr Mark West	Partner, McCullough Robertson

