Bloomberg BNA International Tax Monitor™

Australia

Australian Tax Commissioner to Gain 'Quick Fix' Powers

By Murray Griffin

Aug. 22— The path is clear for parliament to hand the Australian Taxation Commissioner new powers to issue remedial rulings, after the opposition Labor Party indicated its support for the government proposal.

Labor's shadow assistant treasurer, Andrew Leigh, signaled his support Aug. 19 for legislation granting the new powers, in a letter sent to Treasurer Scott Morrison and obtained by Bloomberg BNA.

Snapshot

Labor opposition backs bill to empower commissioner to issue remedial rulings

Powers subject to safeguards to prevent abuse

Move would provide quick response option to fix glitches, inefficiencies currently hampering tax system

The prospect of the commissioner being empowered to issue remedial directives will be welcomed by businesses long frustrated by a backlog of legislation to remedy tax system glitches and inefficiencies.

Leigh said passage of the bill would allow "timely resolutions" of problems arising from the unforeseen or unintended consequences of tax law.

Safeguards in Place

The proposed bill is expected to empower the commissioner to issue legislative instruments to modify the operation of a tax law in certain circumstances.

The commissioner will only be able to exercise the remedial power if the modification is consistent with the purpose of the legislation, is considered reasonable and will have a negligible impact on the federal budget.

As an additional safeguard, parliament could disallow any instruments it considers inappropriate.

The Corporate Tax Association's chief executive, Michelle de Niese, Aug. 22 described the proposal as "a great step forward," noting that the new powers couldn't be used to disadvantage a taxpayer.

"It has a number of significant safeguards to ensure that the power isn't abused," she told Bloomberg BNA by phone.

De Niese noted that legislators often focus on integrity-based changes to tax legislation, resulting in the delayed introduction of amendments to maintain the tax system and reduce compliance costs.

Apart from the U.K.—where similar rulings can be issued through administrative arrangements—few if any other jurisdictions have given their tax agency chiefs similar powers, she added.

"Depending on how effectively the Australian Taxation Offices utilizes this power, it could well be something other jurisdictions will look to as a way in which to reduce uncertainty and compliance costs for taxpayers," de Niese said.

John Walker, Sydney-based head of Baker & McKenzie's Asia Pacific Tax Group, agreed that much will depend on the extent and manner in which the Commissioner exercises the proposed discretionary powers to issue remedial rulings.

It will be interesting "to see how this discretion will be applied in practice," he told Bloomberg BNA in an Aug. 22 e-mail.

A version of the bill to give the commissioner the proposed powers lapsed in the last parliament, ahead of the July 2 federal election, and will need to be reintroduced by the government.

Parliament is due to convene Aug. 30.

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For More Information

The Tax and Superannuation Laws Amendment (2016 Measures No. 2) Bill 2016, the predecessor to the version to be reintroduced, is at http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22legislation%2Fbillhome%2Fr5645%22.

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ISSN 1535-7783
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