

## Large Business Tax Matters - Priority Areas

The matters listed below are issues we understand have (or should have) bi-partisan support.

### 1 Government announcements yet to be 'actioned'

- FBT and car parking

On 29 March 2022, former Assistant Treasurer Michael Sukkar announced that the government would consult on "restoring the previously understood application of FBT to car parking benefits", with the new definition applying from 1 April 2022<sup>1</sup>. We are also eight years down the track from the *Qantas* decision that gave rise to this – action and clarification on this matter is already well overdue.

- Corporate residency

Changes to the definition of corporate residency following the High Court decision in *Bywater* and a Board of Tax review<sup>2</sup> are yet to be released for public consultation. The original Budget announcement of this measure was made on 6 October 2020, with significant time and effort being invested in ATO 'transitional' guidance to bridge the gap between its current position and the expected outcome of the proposed legislative amendments. Recent feedback from Treasury on the timing of consultation on the proposed amendments noted it would be in the second half of 2022. Given the length of time that has lapsed since the announcement of this measure, the legislation and its passage through Parliament should be treated as a priority.

- Individual residency rules and proposed 'bright line test'

Proposed amendments to the individual residency rules were announced in the May 2021 budget. Not much has been heard about the proposed measure since, with the impacts of COVID-19 perhaps lessening its importance. With global mobility activity now picking up pace, some direction on the proposed drafting of these amendments would be welcome.

- Payment Times Reporting schemes

The transitional period for Payment Times Reporting has now ended and [penalties](#) for not adhering to the regime can be significant, posing a real risk for large corporates attempting to comply. Issues arising during the transitional period of implementation of the regime have been raised and discussed and now need to be ironed out.

### 2 Legislation in lapsed Bills

- Patent box measures

This measure, while falling short of what some stakeholders were hoping for out of a patent box regime, has already been through consultation and is now sitting in the lapsed *Treasury Laws Amendment (Tax Concession for Australian Medical Innovations) Bill 2022*. The proposed regime "will commence on 1 July 2022, subject to legislation". Given this is one of the few 'positive' announcements applying to corporate taxpayers made in recent times, there is strong interest in its re-introduction when Parliament resumes.

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<sup>1</sup> <https://ministers.treasury.gov.au/ministers/michael-sukkar-2019/media-releases/consultation-car-parking-fringe-benefits>

<sup>2</sup> <https://taxboard.gov.au/consultation/corporate-tax-residency-review>

- Self-assessment of effective lives of certain intangible assets

The proposed legislation governing this welcome change is contained in the lapsed *Treasury Laws Amendment (Enhancing Tax Integrity and Supporting Business Investment) Bill 2022*. This legislation will allow taxpayers to self-assess the effective life of in-house software assets and copyright (in software) assets in line with the commercial reality of how software assets are used.

### **3. Treasury-led initiatives endorsed by government**

- Pillars One and Two

The release of a comprehensive public consultation paper from New Zealand seeking feedback on how the GloBE rules should be implemented has prompted a number of Australian commentators to ask where Australia is at in terms of Pillars One and Two, given a potential start date in 2023. The concern is, even with the government's recent announcement of the measure, the consultation process will be left too late to provide time for appropriate consultation.