

Asia Pacific Tax Newsalert

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Australia reforms general anti-avoidance rules

Australia has amended the general anti-avoidance rules effective March 2, 2012.

Anti-avoidance rules

The Assistant Treasurer announced on March 1, 2012, that the Australian government would protect the integrity of Australia's tax system by introducing amendments to the general anti-avoidance rules ("Part IVA") of the income tax law by:

- Ensuring that a taxpayer can no longer argue that it could have "...entered into another scheme that also avoided tax, deferred their arrangements indefinitely or done nothing at all;" and
- Confirming that Part IVA "...always intended to apply to commercial arrangements which have been implemented in a particular way to avoid tax. This also includes steps within broader commercial arrangements."

These amendments to rules first introduced in 1981 come after a series of high-profile courtroom defeats for the Australian Taxation Office. The Australian government did not follow its recent trend of amending its tax laws with retroactive effect. Instead, the measures are applicable to "...schemes entered into or carried out..." after March 1, 2012.



The Australian Government plans to consult extensively and seek advice from independent experts about how best to implement the proposed amendments, “...without unintentionally affecting genuine commercial and business activity.”

Following the consultation process, we understand that the Australian Government intends to introduce the necessary amendments into Parliament later this year.

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