A NEW TAX SYSTEM (AUSTRALIAN BUSINESS NUMBER) BILL 1998

A NEW TAX SYSTEM (AUSTRALIAN BUSINESS NUMBER CONSEQUENTIAL AMENDMENTS) BILL 1998

EXPLANATORY MEMORANDUM
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General outline and financial impact

Australian Business Number

The A New Tax System (Australian Business Number) Bill 1998 (the Bill) introduces a new single business identifier - the Australian Business Number (ABN). The introduction of an ABN will eventually allow businesses to have a single business identifier for all Commonwealth purposes, and will provide an important opportunity to improve tax compliance. This system will be available to State, Territory and local government bodies to facilitate single entry point arrangements for all government dealings.

An ABN will be available to all companies registered under the Corporations Law, to government and to other business entities in Australia. An ABN will also be available to other entities which need to be registered for the Goods and Services Tax (GST) such as charitable and religious institutions.

Date of effect: The Bill will apply from the date of Royal Assent.


Financial impact: The effect of an ABN on the revenue cannot be separated from that of the GST and other tax reform measures that the ABN will facilitate. A gain to the revenue resulting from increased compliance of business with the tax laws from the introduction of the ABN and the GST is estimated to be $800 million in 2000-01, $1.43 billion in 2001-02 and $1.35 billion in 2002-03.

Compliance cost impact: There are expected to be initially 2.1 million ABN registrations.

Implementation

Business will incur a small, but unquantifiable, cost to register for the ABN. However, this will be offset by reductions in the costs associated with dealing with government.

The impact of introducing an ABN may vary among entities. However, these costs are not expected to be significant as they mainly involve completing a form with readily available information (such as the business name and address).

Any costs to business associated with the introduction of the ABN will be reduced by any eligible tax deductions.
**Recurrent impact**

Once businesses have registered for ABN purposes the benefit will be ongoing.

The ABN will enable business to be identified by one number for all government purposes and will allow business to comply with regulatory requirements and receive government assistance and advice through fewer entry points. For example, if a business changes its address it will only need to notify one authority. These measures are consistent with the recommendations of the *Small Business Deregulation Taskforce*.

**Cost to Government**

The cost to the Government of implementing this measure is estimated to be $12 million in 1998-99, $45 million in 1999-2000 and $35 million in 2000-01.

**Summary of Regulation Impact Statement**

**Impact:** Low

**Main Points:**

- Introduction of new single business identifier for all Commonwealth purposes.

- Facilitate businesses being able to meet their regulatory obligations and access information and assistance through one or as few as possible entry points to government.

- Available to:
  - companies registered under the Corporations Law;
  - government bodies;
  - business entities; and
  - other entities which need to be registered for the GST.

**Policy objective**

Introduce a new unique business identifier for all Commonwealth purposes to facilitate business being able to meet its regulatory obligations and access information and assistance through the business entry point to government.
Overview

1.1 The A New Tax System (Australian Business Number) Bill 1998 [section 1] introduces a new single business identifier – the Australian Business Number (ABN). The Government announced, as part of its tax reform package, the introduction of a single business identifier that would change business registration and allow business to meet its regulatory obligations and access information and assistance through one, or as few as possible, entry points to Government.

1.2 An ABN will be available to all companies registered under the Corporations Law, to government bodies and to other business entities in Australia. An ABN will also be available to other entities which need to be registered for the Goods and Services Tax (GST) such as charitable and religious institutions.

1.3 The ABN will be available for use by State, Territory and local government bodies to facilitate single entry point arrangements for all government dealings.

1.4 It may be necessary for those Commonwealth agencies, State, Territory or local government bodies who wish to use the ABN to adjust their governing legislation.

Summary of the legislation

Purpose of the ABN

1.5 The purpose of the ABN is to change the system of business registration to make it possible for business to deal with the whole of government at one place and with one business identifier. Under the new system of registration, companies registered under the Corporations Law, government and business entities and other entities required to be registered for the GST will be issued with unique identifying numbers so that they can easily identify themselves in all their dealings with the Australian Government and for all other Commonwealth purposes. [Subsections 3(1) and 3(2)]

1.6 The ABN will make possible a reduction in the number of government registrations and reporting requirements by making the system available to State, Territory and local government regulatory bodies. The new registration system will allow business to meet their
regulatory obligations and access information and assistance through one, or as few as possible, entry points to government. [Subsection 3(3)]

1.7 The ABN will also be the public registration number for the GST.

1.8 The introduction of an ABN will provide an important opportunity to improve tax compliance by allowing business, in their dealings with one another and the ATO, to identify themselves reliably and report regularly for the purposes of taxation laws. [Subsection 3(2)]

Date of effect

1.9 The Bill will apply from the date of Royal Assent. [Section 2]

Background to the legislation

1.10 Business, especially small business, currently deals with numerous regulatory bodies across government. Tax systems require business taxpayers to use different identification numbers for returns and payments under different tax types. In addition, identifiers are also used for many other government regulatory requirements.

1.11 The establishment of a unique business identifier was originally recommended by the Small Business Deregulation Taskforce in order to facilitate the development of a single entry point into government for small business. In responding to this recommendation, the Government indicated that the establishment of a unique business number would be considered as part of the implementation of the single entry point.

1.12 On 13 August 1998, the Government stated its intention to change the system of business registration, as part of its Tax Reform Package, in Tax Reform: not a new tax, a new tax system: The Howard Government’s Plan for a New Tax System. In order to make it possible for business to deal with the whole of government at one place and with one business identifier, the Government announced the introduction of a new business registration system – the ABN.

Explanation of the legislation

Who will be entitled to an ABN?

1.13 Companies registered under the Corporations Law, government entities, other entities who are carrying on an enterprise in Australia and other bodies who are required to be registered for GST purposes will be entitled to an ABN. [Sections 5 and 8] The terms entity, enterprise and carrying on an enterprise in Australia are defined in Division 14 of the Bill.
How will the Registrar register a business entity?

1.14 In registering an entity under the ABN, the Registrar will allocate an ABN to the entity and enter the entity's details in the Australian Business Register. The Registrar will send a written notice informing the entity of its registration, its ABN, the date from which the registration takes effect and the entity's details as they appear on the Register. The Registrar can forward or back date the date of effect for the registration as appropriate to the circumstances. [Section 11]

1.15 Section 10 describes the circumstances in which the Registrar must register an entity and section 9 provides what the Registrar may require of an entity in order to do so. Subsection 12(1) specifies that the Registrar may send a notice under this Act to the entity's address for service as shown in the Australian Business Register.

What information will the Australian Business Register contain?

1.16 Subsection 24(1) provides that the Registrar must establish and maintain an Australian Business Register.

1.17 The Australian Business Register may be kept in any form that the Registrar considers appropriate [subsection 24(2)] but must include details such as the entity's name, ABN, date of effect of the registration, address for service of notices and details that will be prescribed in regulations. [Sections 25 and 31]

1.18 The evidentiary value of the Australian Business Register is explained in section 27.

Will the Australian Business Register be accessible to the public?

1.19 Yes. Section 26 authorises public access to information contained in the Australian Business Register. A person may inspect the Australian Business Register and take copies of entries in the Register on payment of the prescribed fee (if any).

1.20 Section 30 provides for the protection of an entity’s information and documents obtained by the Registrar, or his or her officers, in the course of establishing, maintaining and using the Australian Business Register.

What if the Registrar refuses an application for registration?

1.21 If the Registrar refuses an application for registration, he or she must notify the applicant, in writing, and give reasons for the refusal. [Subsection 13(1)]

1.22 If the Registrar has not decided an application within 28 days, the applicant may give written notice to the Registrar that it wishes to treat the application as having been refused which then allows the applicant to exercise its rights of review. [Paragraph 21(1)(b)] If an applicant gives
such a notice, the Registrar will be taken to have refused the application on the day on which the notice is given. [Subsections 13(2) and 13(3)]

What are the ongoing obligations of a registered entity?

1.23 A registered entity must notify the Registrar, within 28 days, of any changes to its details as provided to the registrar. [Subsection 14(1)] The entity’s notice must be signed. [Section 20]

1.24 If requested by the Registrar, a registered entity must also provide any other information that is relevant to the entity’s entitlement for registration, its identity and any other details set out in the Australian Business Register. [Subsection 15(1)]

1.25 Subsection 15(2) explains the manner in which the Registrar is to request the abovementioned information. Subsection 15(3) specifies that if a registered entity is requested to provide the information in writing the information must be lodged with the Registrar. The information must be signed by the entity. [Section 20]

1.26 Subsections 16(1) and 16(2) specify who is obliged to provide the abovementioned information where a registered entity is a partnership, or an unincorporated association or body and subsection 16(3) provides a defence for those persons if prosecuted for an offence against section 8C of the Taxation Administration Act 1953.

1.27 The above actions, as well as the bulk of future transactions to be facilitated by the Australian Business Register, will eventually be able to be transacted electronically. [Sections 14, 15, 20, 24, 27 and 40]

Can a registered entity's ABN be changed?

1.28 Yes. The Registrar may, at any time, change an entity's ABN by making an appropriate change to the Australian Business Register (including the date from which the new ABN has effect). The Registrar must notify the entity of the changes in writing. [Section 17]

Can a registered entity's ABN be cancelled?

1.29 Yes. An entity's ABN registration may be cancelled in one of two ways – at the Registrar's initiative or at the entity's request. [Section 18]

At the Registrar's initiative

1.30 If the Registrar is not satisfied of an entity's identity or entitlement to an ABN, he or she may cancel the entity's registration in the Australian Business Register. [Subsection 18(1)] The Registrar must notify the entity, in writing, of the cancellation stating reasons for the cancellation and its date of effect. [Subsection 18(2)]
At the entity's request

1.31 A registered entity may apply for cancellation of its ABN registration and the Registrar may cancel its registration if he is satisfied it is appropriate to do so. [Subsection 18(4)] Again, the Registrar must notify the entity in writing of the cancellation, specifying the date of effect of the cancellation. [Subsection 18(5)]

1.32 Subsections 18(3) and 18(6) specify the possible dates of effect in relation to the cancellation of ABN registrations.

Can a cancelled registration be reinstated?

1.33 Yes. If the Registrar is satisfied that an entity's registration should not have been cancelled, he or she must reinstate an entity's registration in the Australian Business Register and notify the entity of the reinstatement in writing. [Section 19]

Can an entity apply for a review of a decision in relation to its ABN registration?

1.34 An entity may apply to the Administrative Appeals Tribunal (AAT) for a review of certain decisions made by the Registrar in relation to its ABN registration. [Section 21] Subsection 21(1) lists the types of decisions that are subject to review, eg. a decision to cancel an ABN registration under subsection 18(1).

1.35 An entity may be given a temporary ABN registration where the Registrar has refused its application for ABN registration under section 13 and the entity has applied to the AAT for a review. [Subsection 21(2)] The temporary registration will cease to have effect when the application for review is finally disposed of. [Subsection 21(3)] Section 22 provides that notice of any decision of the type mentioned in section 21 must include a statement of the affected party’s rights to seek review though omitting to include the statement will not affect the validity of the decision.

What if the ABN is misused?

1.36 Section 23 explains that the ABN must not be misused and specifies penalties associated with such offences.

Will it be mandatory for a business entity to obtain an ABN?

1.37 No. Although it will not be mandatory for a business entity to have an ABN, the new arrangement will streamline registration processes for small business allowing them to deal with all of the Commonwealth through one number. An entity will be required to have an ABN to register for GST purposes. Otherwise, the advantages of the ABN, to small business, are listed below and will provide a commercial incentive to register.
How will an ABN benefit a business entity?

1.38 The ABN will:

- facilitate administration of the GST;
- benefit small business with more accurate and up to date information and services provided by the Commonwealth;
- reduce administrative costs for small business by limiting the number of times a business will be asked for similar information by different agencies. This means that there will be a reduction in the number of forms and other procedural obligations that business are currently burdened with;
- reduce the need for difficult judgements by businesses about whether the service providers they engage are employees or contractors. (If a business receives an invoice without an ABN, they will be required to withhold tax from that payment just as they do for payments to their workers); and
- allow small business to access basic identification information about other entities that they are dealing with.

Consequential amendments

1.39 The Bill is accompanied by the A New Tax System (Australian Business Number Consequential Amendments) Bill 1998. This is the second of the 2 Bills which implement the ABN. This Bill amends the Taxation Administration Act 1953 to make the A New Tax System (Australian Business Number) Bill 1998 a taxation law. [Sections 1 and 2] It also ensures that:

- when a person is acting as the Commissioner of Taxation they can exercise all the powers and functions of the Australian Business Registrar; and
- the Commissioner can delegate his or her powers and functions as Registrar to a Deputy Commissioner or another person. [Sections 3 and 4]

The Bill also enables TFNs to be requested in connection with the proper functioning of the ABN without an offence being committed by the person making the request. [Section 5]

Regulation Impact Statement

Policy objectives

1.40 The introduction of a new single business identifier – the Australian Business Number (ABN) – was announced by the Government

1.41 Business, especially small business, currently deals with numerous regulatory bodies across government. Tax systems require business taxpayers to use different identification numbers for returns and payments under different tax types. In addition, identifiers are also used for many other government regulatory requirements.

1.42 The introduction of an ABN allows businesses to have a single business entity identifier for all Commonwealth purposes, and will provide an important opportunity to improve tax compliance. The ABN will facilitate business being able to meet its regulatory obligations and access information and assistance through one, or as few as possible, entry points to government through making it available to State and local government bodies.

1.43 An ABN will be available to all companies registered under the Corporations Law, to government bodies and to business entities in Australia. An ABN will also be available to other entities which need to be registered for the Goods and Services Tax such as charitable and religious institutions.

**Implementation option**

1.44 The Australian Taxation Office (ATO) has been selected by the Government to create and maintain the Australian Business Register. Each ‘entity’ that is genuinely carrying on an ‘enterprise’, together with government entities and companies registered under the Corporations Law, will have a single business identifier – an ABN. The terms *entity* and *enterprise* will be defined terms for ABN purposes.

1.45 The Commissioner of Taxation is to be the Registrar of the Australian Business Register (the Registrar) [section 28] and will report to the Minister annually, the Minister in turn tabling the report in Parliament, on the working of the Australian Business Register. [Section 29]

1.46 Before issuing an ABN to an entity, the Registrar will require the applicant to provide sufficient information to allow the Registrar to be satisfied as to the identity of the applicant, and where necessary, to establish that the entity is carrying on an enterprise, as defined. Once satisfied of these matters, the Registrar will issue an ABN to the entity.

1.47 Details provided by the applicant will be entered into the register, but only basic identification information will be publicly available. These provisions will apply from the date of Royal Assent.
Assessment of impacts (costs and benefits)

Impact group identification

1.48 All companies registered under the Corporations Law, government and business entities and those other entities which need to be registered for the Goods and Services Tax may apply for an ABN.

1.49 Individuals and organisations who deal with entities who have obtained an ABN.

1.50 Commonwealth, State or Territory and local government organisations who use the ABN as an identifier.

Assessments of costs

1.51 There are expected to be costs incurred by entities in changing to a new primary identifier number and since the ABN is to be a fully public number, some costs in facilitating this publicity.

1.52 In incorporating the ABN into their business, it is expected that entities will incur costs in:

1. registering for an ABN;

2. updating their administration/computer systems to incorporate the ABN in inter-business transactions;

3. training staff on ABN use requirements which might require procedural change;

4. printing/amending stationery to display the ABN; and

5. possibly obtaining professional advice as to obligations under the ABN.

However, points 2 to 5 mostly relate to the subsequent use of the ABN once it is obtained and therefore compliance costs related to these points have been attributed to the GST and other tax reform measures that require that use of the ABN.

Number of Registrations

1.53 The estimated number of ABN registrations in 1999-2000 is 2.1 million. The following table shows the estimated number of registrations by entity type:

<table>
<thead>
<tr>
<th>Entity</th>
<th>Number ‘000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Companies</td>
<td>650</td>
</tr>
<tr>
<td>Superannuation funds</td>
<td>150</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>----------------------</td>
<td>------</td>
</tr>
<tr>
<td>Individuals</td>
<td>500</td>
</tr>
<tr>
<td>Partnerships</td>
<td>420</td>
</tr>
<tr>
<td>Trusts</td>
<td>180</td>
</tr>
<tr>
<td>Tax exempt bodies</td>
<td>200</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>2,100</td>
</tr>
</tbody>
</table>

**Implementation**

1.54 Business will incur a small, but unquantifiable, cost to register for the ABN. However, this will be offset by reductions in the costs associated with dealing with government.

1.55 The impact of introducing an ABN may vary among entities. However, these costs are not expected to be significant as they mainly involve completing a form with readily available information (such as the business name and address). Any costs to business associated with the introduction of the ABN will be reduced by any eligible tax deductions.

**Recurrent impact**

1.56 Once businesses have registered for ABN purposes the benefit will be ongoing. The ABN will enable business to be identified by one number for all government purposes and will allow business to comply with regulatory requirements and receive government assistance and advice through fewer entry points. For example, if a business changes its address it will only need to notify one authority. These measures are consistent with the recommendations of the Small Business Deregulation Taskforce.

**Cost to Government**

1.57 The cost to the Government of implementing this measure is estimated to be $12 million in 1998-99, $45 million in 1999-2000 and $35 million in 2000-01.

**Assessments of benefits**

1.58 The ABN will:
• be able to be used as the sole identifier in a business’ dealings with the Commonwealth;

• be available to State, Territory and local government bodies to facilitate single entry point arrangements;

• facilitate a single tax compliance statement for multiple obligations;

• facilitate streamlining business interaction with the Commonwealth;

• allow for, with appropriate changes to various governing legislation, the collection and distribution of information through a single entry point to all levels of government regulatory bodies; and

• facilitate the streamlining of registration processes.

1.59 Businesses (especially small businesses) are likely to benefit from improved information flows from the Commonwealth, State, Territory and local government (through more accurate targeting, tailoring etc.). The introduction of the ABN is also anticipated to improve the flow of information from businesses to governments, reducing the number of forms to be completed and limiting the number of times a business will be asked for similar information by different agencies.

1.60 The introduction of an ABN will assist the ATO to improve tax compliance. Businesses registered for GST will be generally required to issue an invoice quoting an ABN. If the ABN is absent in a business to business transaction, the business receiving the invoice will be required to withhold tax from their payments for goods or services (just as they do for payments to their workers). This will reduce the need for difficult judgements by businesses about whether the service providers they engage are employees or contractors.

Revenue gain

1.61 The effect of an ABN on the revenue cannot be separated from that of the GST and other tax reform measures it will facilitate. A gain from increased compliance of business with the tax laws from the introduction of the ABN and the GST is estimated to be $800 million in 2000-01, $1.43 billion in 2001-02 and $1.35 billion in 2002-03.

Consultation

1.62 Consultation has been undertaken with various government stakeholders including the Australian Securities and Investments Commission, the Australian Bureau of Statistics and the Australian Customs Service. Targeted consultation, on the administrative framework for the scheme, will be undertaken during the initial implementation of the scheme.
Conclusion

1.63 The measure will implement the Government’s decision, announced in ANTS, to introduce a single business identifier – an ABN – to make it possible for business to deal with all of the Commonwealth through one number.

1.64 The ABN will facilitate the implementation of the GST registration process. The ABN will make it increasingly possible for business to deal with government at one, or as few as possible, places. It will also reduce compliance costs for business by reducing requests from Commonwealth government agencies for information, and reducing paperwork. It may also streamline the provision of Commonwealth government services to business (especially small business).

1.65 The Treasury and the ATO will monitor this measure, as part of the whole taxation system, on an ongoing basis. In addition, the ATO has consultative arrangements in place to obtain feedback from professional and business associations and through other taxpayer forums.