

# AUSTRALIAN TAX REVIEW

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## ARTICLES

### **The tax treatment of farmouts: Do rulings MT 2012/1 and MT 2012/2 chart a path to revenue Nirvana or Hades?** – *Ian Murray*

Despite their widespread use in the resources industry, there has long been uncertainty over the income tax treatment of farmout arrangements. Accordingly, the release of two taxation rulings dealing with the income tax and GST consequences of farmout arrangements, MT 2012/1 and MT 2012/2 (the farmout rulings), is to be welcomed for the added certainty that they may bring. This article examines two questions raised by these rulings. First, in seeking a pragmatic outcome, has the Commissioner adopted a technically correct income tax treatment? That is, does the farmee provide benefits to the farmor for the assets farmed out, within the cost and balancing adjustment event provisions of the uniform capital allowance regime? Secondly, even if the key income tax thesis is correct, do the farmout rulings leave unresolved income tax issues, so continuing the uncertainty? .....

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### **Tax on my mind: Advisors' recommendations for choice of business form** – *Brett Freudenberg*

The research detailed in this article has two aims. First, to better explore what advisors consider are important factors in the choice of business form; and, secondly, to explore whether tax benefits play a large role in this choice. A better understanding of the underlying motivations in choosing an appropriate business form is needed because making the wrong choice may result in costs for both the business and the broader economy. This article details a study of 81 Queensland advisors, exploring what they thought were important considerations regarding the formation of businesses. The findings suggest that advisors consider asset protection and tax benefits to be most important when recommending business forms. ....

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### **Building flexibility into Commonwealth tax legislation: A case for the use of an extra statutory concession power** – *Nicole Wilson-Rogers*

This article examines the advantages and disadvantages of utilising an extra statutory concession power (ESCP) in Australia's Commonwealth tax legislation and suggests the key components for establishing a statutory ESCP. The debate regarding the use of ESCPs raises fundamental issues regarding the use of discretion within a revenue Act, the amount of discretionary power that should be vested in an administrator and the issues an ESCP presents in relation to the rule of law. ....

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