

'AT CALL' LOANS TO SMALL BUSINESS TO BE TREATED AS DEBT

The Government today announced changes to simplify the debt/equity tax rules (Division 974 of the *Income Tax Assessment Act 1997*) for related party 'at call' loans made to small companies. Small business will now have only one test to apply in determining whether the debt / equity rules apply to their at call loans. This should significantly reduce the compliance burden on the sector and let them use company funds more productively in the business.

Minister for Revenue and Assistant Treasurer, Mal Brough, said the changes will treat at call loans of such companies as debt interests for the purposes of the income tax law. The amendments will take effect from 1 July 2005 to coincide with the end of the transitional rule for related party at call loans .

Originally changes were to apply to companies which had capital gains tax (CGT) assets with a net value of \$5 million or less and annual deductions in relation to the loan of \$100,000 or less. However, further consultation with industry has helped to simplify the rules further.

“As a result of these consultations and further consideration by Government, the proposed changes will now apply to companies with an annual turnover of less than \$20 million. This is a much better outcome for small businesses,” Mr Brough said.

For private companies with related party at call loans that can't take advantage of the proposed changes because their turnover exceeds the \$20 million limit, the Government will allow a further opportunity of reducing their compliance costs. This will apply where the:

- terms of an at call loan are changed so it will be treated as debt for income tax purposes, and
- change to the loan is made between the end of the income year in which the company failed the \$20 million turnover test and the earlier of the company's due date for lodgment of its tax return and the actual lodgment date

A private company may elect to have such a loan treated as a debt interest from the start of the year of income in which it failed the turnover test.

Mr Brough also announced that amendments to the material change provisions of the debt/equity rules will ensure that where before 30 June 2005 an at call loan was changed so as to be treated as debt, it will continue to receive debt treatment after that date. The simpler rules demonstrate the Government's desire to reduce compliance costs for small business and provide more tax certainty. They effectively remove small business from the scope of these debt-equity provisions that necessarily apply to larger companies with more complex financial arrangements.