

Corporate Loss Carry-Back: Policy and Design Issues

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Loss carry-back for business taxpayers has long been a measure proposed in Australia. However, despite a history of proposals for its introduction, most recently from the Business Tax Working Group in 2011, it has generally not found political favour and remained a matter that is raised at tax reform meetings that goes no further.

A brief reprieve from this pattern occurred when such a measure was introduced by the Gillard Government in 2012, eventually allowing loss carry-back for corporate taxpayers for up to two years. However, a return to regular programming took place with the Abbott Government repealing the measure in September 2014, effective as of the start of the 2014 income year.

Hope for the reintroduction of this measure may be seen in that the Abbott Government's repeal is based on political considerations unrelated to the substantive merits of the measure itself (the introduction was part of a suite of measures on which the Abbott Government campaigned against whilst in Opposition, in particular revenue losses from this measure being funded by the Mineral Rent Resources Tax that was also repealed in September 2014). As a result, the door remains open for loss carry-back to be reintroduced at a subsequent point in time.

The measure that was briefly in place provides a frame of reference for critique, representing a model that successfully passed practical and political obstacles to be legislated. This paper critiques the now repealed provisions, drawing upon the experience in other comparable jurisdictions that feature loss carry-back in their tax systems, providing recommendations for how such a measure should be structured should the will to reintroduce loss carry-back in Australia re-emerge.