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The Secretary
Review of Business Taxation
Department of the Treasury
Parkes Place
CANBERRA ACT 2600

SUBMISSION - DISCRETIONARY TRUSTS

I have some major concerns with the business tax review committee proposal that:

“any capital held in a trust would be treated at a beneficiary’s marginal rate when it is distributed.”

My specific concern is its impact on discretionary trusts.

1. This amounts to double taxation as income and capital will both be taxed under this proposal.

Trusts must distribute all their income in any given year or the trustee pays tax at the highest marginal rate. Beneficiaries of the distribution are taxed at their own marginal rate.

If distributions of capital are also taxed at the beneficiary’s marginal rate, this proposal affectively amounts to double taxation.

2. Bequests distributed from estates using discretionary trusts would similarly be affected if the proposals come into force.

3. Under the proposal, there is no mechanism to allocate a cost base. This means all capital distributors would affectively be taxed like a capital gain.

This is obviously unacceptable as it should comply with Capital Gains Tax provisions. CGT is payable on the difference between the base cost adjusted for inflation and the net selling cost.

SUMMARY

My major concern is that the proposals are not on the review agenda. Because they are being put aside, they will "slip through the net" and become law. This will create a problem for the community both now and in the future. It is not just companies which will be affected but also many ordinary Australians using discretionary trusts.

I request that the issues raised above be given full consideration and are properly addressed by the Review of Business Taxation committee prior to its report to the Government on 30th June 1999.

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This submission can be made public. Acknowledgment of receipt would be appreciated.

Yours faithfully

J N Clift