

Dr Alan Preston
Secretary
Review of Business Taxation
Department of the Treasury
Parkes Place
CANBERRA ACT 2600

Dear Dr Preston

On behalf of the Small Business Forum, I have pleasure in forwarding the attached Submission to the Review of Business Taxation.

The Small Business Forum is the main formal consultative mechanism between the Commonwealth Government and small business. The Forum comprises 33 industry and professional associations representing small business and normally meets twice a year with the federal Minister responsible for small business.

This Submission is the outcome of a Round Table conducted on 7 April 1999 with Forum members and members of the Small Business Consultative Committee. Messrs John Ralph AO and Rick Allert AM of the Review of Business Taxation and members of the RBT Secretariat were also in attendance.

This Submission reflects the position reached by the Round Table on ten key issues of concern in relation to business taxation. The Submission does not attempt to canvass all issues raised in discussions on the day, nor does it comprehensively outline the positions of individual participants, many of whom will be submitting separate submissions to the Review. However, it aims to, as far as is possible, outline an agreed small business position on business tax reform.

I should highlight that the views canvassed in this submission are those of the Small Business Forum and should not be attributed to the Office of Small Business (OSB). The OSB's role has been to facilitate the Round Table and assist in drawing together this summary of the outcomes reached.

The contact officer in relation to this submission is Mr Brien Armstrong on telephone (02) 6121 7356.

Yours sincerely

Tom Fisher
Assistant General Manager
Office of Small Business

cc: Minister for EWR&SB
Treasurer

Small Business Forum

Submission to the Review of Business Taxation

Introduction

The Round Table expressed its appreciation of the opportunity provided for small business to discuss the proposals contained in *A Platform for Consultation* with the Chair of the Review of Business Taxation (RBT), Mr John Ralph AO. The Attendance of the Treasurer, the Hon Peter Costello MP, and the Minister for Employment, Workplace Relations and Small Business, the Hon Peter Reith MP, also indicated recognition by the Government of the need to ensure that the needs of small business are addressed in the reform of business taxation.

1. Entity taxation / taxation of trusts

The Round Table noted the RBT's proposals for taxing trusts as companies. Concerns were expressed about the potential for increased compliance costs and the need for a greater range of transitional measures than is currently proposed.

There was general agreement that if the Government is aiming for more consistency in the taxation of business entities, it would be preferable to tax closely held companies on a similar basis to the current treatment of trusts. It was argued that this would involve lower compliance costs, be more consistent with the treatment of individuals and more in keeping with the concept of small business as family business.

It was also suggested that this aspect of the RBT and all other options should be required to meet the test of impact neutrality.

Another issue raised was the absence of an 'otherwise deductible' rule in the definition of dividend within the proposed entity tax regime. This impacts on cooperatives and other business structures where business benefits are provided at less than market value. The absence of such a rule will result in taxpayers being assessed on benefits received from entities even though the benefit would have been deductible if acquired from a third party.

The Round Table also agreed that the tax exempt status of clubs under the mutuality principle is an issue for many small businesses which are confronted with unfair competition from clubs.

2. Capital Gains Tax (CGT)

There was a divergence of views on the question of trading-off indexation for an additional CGT tax free threshold or cuts in CGT rates. While taxpayers holding assets for shorter periods would be advantaged by the proposal, concerns were expressed about the impact in respect of longer term assets and taxpayers holding assets that are merely appreciating in line with inflation.

There was agreement that a general 20 percent CGT exemption on the sale of small business assets would be inadequate to compensate for the loss of the current 50 percent goodwill

exemption. It was argued that goodwill constitutes the major CGT component on the sale of a small business. A preferred option would be to allow a 50 percent general small business exemption or \$500,000, whichever is greater.

It was also argued that scrip for scrip rollover relief should be available for the sale of small businesses, trusts and possibly other transactions.

3. Fringe Benefits Tax (FBT)

The Round Table supported the transfer of liability for FBT to the employee. RBT proposals for the abolition of FBT on entertainment and car parking also met with support. It was noted that the current FBT treatment of entertainment favoured the provision of in-house entertainment, an option which is generally unavailable for small business.

There was some discussion on the question of aligning the FBT year with the income tax year. The view was put that coping with the increased end of financial year workload would not be a problem for tax agents dealing with small business, but may be for large business. A compromise position would be to move to a 1 July – 30 June FBT year, but to provide businesses with the option of staying with the current arrangements.

4. Depreciation

Some concern was expressed about the possible abolition of accelerated depreciation to finance cuts in company tax. It was pointed out that only a minority of small business taxpayers are companies and would gain no benefit from lower company tax rates. The potential for changes to accelerated depreciation to impact on eligibility for family allowance was also raised.

Participants commented that a lack of data makes it difficult to assess the extent to which small business currently benefits from accelerated depreciation.

The Round Table supported introducing a single 25 percent rate of depreciation for all items of capital expenditure on a reducing balance basis (with some minor exceptions). Lifting the current \$300 threshold for immediate write-off of low cost items also gained wide support.

5. Payroll tax

A number of participants argued for the abolition of payroll tax on the grounds that it constitutes a barrier to business expansion. However, the general consensus was that raising the thresholds at which payroll tax becomes payable would be of greater assistance to small and medium businesses. The Round Table agreed that while payroll tax is not a federal tax, the RBT could play a role in putting pressure on the states for reform of payroll tax, particularly if revenue from the Goods and Services Tax (GST) turns out to be greater than expected.

6. Infrastructure

Concern was expressed about the impact of Section 51AD in deterring investment in infrastructure. Section 51AD is intended to prevent the transfer of tax concessions for infrastructure borrowing to tax exempt bodies. It was argued that the control test under 51AD applies far too widely and that the provision should be abolished.

7. Business incentives

There was some discussion of the inability of smaller businesses to gain equal access to business incentives delivered through the tax system. A view was put that such incentives should be delivered through direct grants, rather than tax concessions, which are only of value to businesses making a profit. Against this it was argued that tax incentives are generally simpler and less costly to access.

It was generally agreed that concessions such as the 125 percent deduction for R&D should be made available to unincorporated business as well as companies, and that both tax and grants based measures require simplification and education.

8. Venture Capital

There was general support for CGT incentives targeted at encouraging venture capital, particularly investment in start-ups. However, it would not be helpful if lower CGT rates on longer term investments were to be at the expense of punitive rates on shorter term investment.

The view of the Round Table was that the Australian venture capital market is poorly developed and that overseas investors are unwilling to invest in Australia because of the relatively harsh tax treatment. Under present laws, foreign venture capital fund providers are encouraging Australian businesses offshore before they will provide the funding desired. Changes to existing CGT and controlled foreign corporation laws are necessary if the Australian Government wishes these businesses to remain onshore.

9. Leasing

There is a need for industry consultation and feedback on detailed aspects of the RBT proposals as they affect the franchising sector.

More generally, on the RBT's proposed approach of taxing lease transactions based on economic substance, it was argued that very clear rules and guidelines will be necessary to avoid imposing additional confusion and complexity on business.

10. Compliance costs

The Round Table noted that the potential additional compliance costs which could result from the RBT recommendations, *A New Tax System (ANTS)* and the GST remained a major cause of concern. It was emphasised that the Government already places considerable demands upon small business as a de-facto collector of public monies and delivery mechanism for social programmes. An example raised was the ANTS proposal to provide the option of receiving family assistance through the pay packet.

The Round Table expressed particular concern that small firms face a disproportionately high burden in this area and asked that the issue be raised as a business concern in the RBT's report. The Round Table was of the view that small business should be compensated for its role as a collection agency for the Government.

It was also noted that small business and their advisers are being required to deal with simultaneous change on a number of fronts and that consideration might need to be given to deferring the introduction of some elements.

The desirability of moving towards a single collection agency (the Australian Taxation Office) for commonwealth, state and local government taxes was also raised.

Conclusion

The summary above indicates the views of the Round Table participants listed in the attachment. A number of those present, or the organisations they represent, have made separate submissions to the RBT.

Small Business Forum – Round Table on the Review of Business Taxation**Attendees**

Australian Business
Australian Chamber of Commerce and Industry
Australian Industry Group
Australian Council of Building Design Professions Ltd
Australian Council of Businesswomen
Australian Federation of Business and Professional Women
Australian Hotels Association
Australian Institute of Management
Australian Retailers Association
Australian Small Business Association
Australian Society of Certified Practising Accountants
Council of Small Business Organisations of Australia
Franchise Council of Australia
Housing Industry Association
Institute of Chartered Accountants
Law Council of Australia
Master Builders Australia
National Farmers' Federation
National Institute of Accountants
Real Estate Institute of Australia
The Pharmacy Guild of Australia
Victorian Employers' Chamber of Commerce and Industry

Members of the Small Business Consultative Committee

Mr Curt Rendall
Mr Greg Evans
Mr Ian Baldock
Ms Angela Ryan
Assoc Prof Neil Warren
Mr Peter Seikmann
Mr Steve Chapman