

Australia's Future Tax System Submission To The Review Panel

19 March 2009.

I would like to make some recommendations which I believe would remove blatant inequities from the current capital gains tax legislation.

My suggestions fall within the Terms of Reference of your review whereby it is required to make recommendations with a particular focus on matters, including at item 4, under "Objectives and Scope" – ensuring there are appropriate incentives for issues such as at:-

item "4.2 individuals to save and provide for their future, including access to affordable housing"

My perspective on this issue is from an individual point of view and draws comparisons with concessions available to individuals as compared to those currently available to small businesses.

Over a period of many years I have purchased (jointly with my wife) freehold property and listed shares. In order to accumulate these assets our discretionary spending has had to be carefully managed and whilst not wanting to labour the point, risks have been taken and sacrifices have had to be made in order to achieve those goals. Our long term investment aim has been to accumulate sufficient assets (in addition to compulsory superannuation) in order to be self sufficient in retirement.

Under the current capital gains tax (CGT) legislation, the only concessions available to individuals when calculating capital gains are:-

- The general 50% CGT discount for assets held longer than 12 months, and
- The splitting of the capital gain for assets held in joint names.

My submission seeks consideration of the following amendment:-

For individuals any capital gain made from disposing of a CGT asset would be exempt, provided that:-

- **The CGT assets have been held continuously for 15 years**
- **The individual is aged 55 years or over, and assuming he/she has not already retired, the sale of the asset is in connection with the individual's retirement, or**
- **The individual is permanently incapacitated.**

To be eligible to utilise this exemption an individual would be required to satisfy the "maximum net asset value test" as it currently applies to the small business capital gains tax concessions.

This amendment would place the rights of an individual on equal footing with business operators who are 55 years or over and retiring, or are incapacitated.

In reality the investment objectives of the individual (planning for retirement) and the business operator are identical. Both are prepared to work long term towards the goal of accumulating assets/wealth with a view to retiring with some degree of comfort without having to rely on government assistance.

Under the current legislation the glaring difference between the two parties is that, provided the business operator satisfies the criteria in order to avail himself of the "Capital Gains Tax Concessions For Small Business", any capital gains (relating to active assets), which may be valued at up to several million dollars, would be totally exempt from capital gains tax.

As previously indicated, this situation is grossly unfair given that an individual who, similar to the business operator, has had to take financial risks and make personal sacrifices over many years in order to achieve a degree of self sufficiency.

The suggested change to the legislation is not only in line with the objectives of your review, in regard to providing appropriate incentives to individuals to save for their future; but is also in accord with comments made by Wayne Swan and reported in The Australian on 12 December 2008 that “Australia needed a tax system that is internationally competitive, **rewards the hard work of individuals and businesses**, and is much simpler”.

Ken Davey
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