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Submission to the
Henry Tax Review Committee

I have been in business as a registered tax agent for over 30 years. I have had considerable experience in the income tax and GST systems as they affect individuals and small businesses.

There are two income tax issues which have caused me concern over the years and which I would like to bring to the attention of the Henry Committee…………

1. Family Entity Taxation
2. Residential Capital Gains Tax Exemption

Family Entity Taxation

The current system of taxing individuals is biased. It favours the self employed who can organize their affairs through partnerships, companies and trusts so that tax is spread between family members.

This system occupies a lot of the time of taxation accountants and tax advisers in setting up and administering complicated financial structures with consequently greater compliance costs.

Some financial structures are highly artificial and contrived. They are justified as sheltering assets from business risks, estate planning grounds etc. By coincidence they just happen to save considerable income tax.

For example it is common for tax accountants to set up family partnerships and trusts to redistribute taxable income where some of the partners or beneficiaries (especially wives) make no meaningful contribution to the business. Some of these arrangements are particularly blatant (eg a truck driver in partnership with his wife) but still readily accepted by the Australian Taxation Office.

A system of family entity based taxation would be fairer to all taxpayers. It would eliminate the bias between taxpayers, reduce the complexity of conducting business and reduce the compliance costs inherent in the current system.

Residential Capital Gains Tax Exemption

The current exemption creates a bias in favour of purchasing residential real estate rather than investing in income producing assets. The effect of this is that many Australians live in homes larger and more expensive than they otherwise would. They often believe that their home is their superannuation, that it is a risk free investment and the capital gain is tax free.

Australia is starved of capital and banks borrow considerable funds from overseas to offset the capital shortfall. Our foreign debt situation is therefore exacerbated by this issue.

Another aspect of the residential capital gains tax exemption is that it encourages an army of taxpayers to operate outside the tax system through renovating their homes and selling them as capital gains tax exempt. This is particularly prevalent in a real estate boom. Some are able to build significant wealth without paying any tax whereas others who earn income or capital gains in a traditional way do pay tax.

I would encourage the Henry Committee to consider removing the residential capital gains tax exemption in certain situations. A possible scenario might be

a. Normal tax on residential capital gains of under two years (ie the capital gain is treated as a business or profit making undertaking)
b. Normal capital gains tax on residential capital gains between two and five years (ie 50% CGT discount)
c. No tax on residential capital gains after 5 years.

Perhaps some discretion could be given to the Tax Commissioner to waive the tax in unusual circumstances within the five year period (eg the taxpayer sells his residence because of a change in the location of his employment, or he sells because of serious financial pressures etc).

Thank you for the opportunity of making a submission.

Yours faithfully,

Ross Edwards
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Director of Ross Edwards & Associates Pty Ltd