Submission re. Australia's Future Taxation System

There are many aspects of the Australian taxation and transfer payments system which need to be addressed. Many of these have been widely commented upon and no doubt will be the subject of detailed submissions from a variety of parties. My submission is however limited to flagging several matters which may not receive the level of attention I believe they deserve.

My comments are based on 34 years experience as a Chartered Accountant specializing in tax and my experience as an employer, investor, taxpayer and working mother.

1. Changes to encourage investment in new technology and businesses suited to a continually changing global environment

- Repeal the non-commercial loss provisions of Division 35 of ITAA. They are a major impediment in establishing new businesses where real risk of failure exists. The people best placed to invest in such businesses are those with other income, and the inability of such people to invest and claim tax deductions for expenses incurred makes it difficult for projects with real risk to be financed and developed in Australia. Division 35 was introduced to attack mass marketed tax schemes but it is broad enough to restrict the development of new business generally.

  The combination of the Division 290 penalty regime for promoters of tax exploitation schemes, combined with the Part IVA general anti-tax avoidance is, or should, with proper drafting and policing, be sufficient to address problems of mass-marketed tax schemes not properly pursued for the stated objective. If the sensitivity to primary production (or other) schemes is so great that the Division cannot be repealed completely, then its potential application should be limited by restricting the type of businesses, or industries it can be applied to, so that it is not a hurdle that all new businesses have to consider and deal with at high cost.

2. Changes to encourage work-force participation from a shrinking working age population

- The removal of the non-commercial loss provisions referred to above would also prevent that provision from acting as an impediment to business and investment by older workers in an economy which is likely to be dominated more and more by businesses for the supply of services and knowledge. The objective should be to keep older Australians working longer and using their skills from years of experience, even if they do not want to establish or work for a corporate entity or commit to working for the number of years required to fully develop a new business. However, the 4 commerciality tests in Division 35 require either income of more than $20,000 in the year, or profits in 3 of the last 5 years from the activity, or real property worth more than $500,000 used in the activity, or other assets worth more than $100,000 used in the business.

The pre-occupation of the legislation with physical assets is inappropriate in the modern world. If I, as a Chartered Accountant and tax agent with 35 years experience including over 20 years as a partner in a major firm, set up my own business as a sole trader and make a loss after paying for hefty insurance and communication costs, a tax deduction can be denied for that loss if I cannot satisfy one of the above tests. This is absurdly restrictive. I realize that the Commissioner of Taxation has a discretion not to apply Division 35, and may do so in that case, but that requires people to direct their energies to supplying the necessary information and requesting the exercise of that discretion. While that is not particularly difficult for a qualified tax adviser, it is an unnecessary cost and diversion from the core business for those with other qualifications, and an unnecessary uncertainty where a profit would undoubtedly be taxed.

- Allow tax deductions for childcare expenses in respect of 1 to 5 year olds where both parents of the children are working for more than a nominal number of hours per week. The deduction could be capped to limit the deduction to the cheaper childcare options with qualified carers, but more incentives are needed for women to return to work before their skills and confidence are lost after taking maternity leave. The current system gives little incentive to second income earners to return to work unless they are already well paid and well established, given the stress two full-time jobs places on a family and the high cost of long hours of childcare.

  It is simply inequitable to tax the income earned from working, without allowing a deduction for the necessary expenses of earning it, and allowing a tax deduction rather than a rebate ensures the net financial benefit is clearer. Without this Australia will continue to lose valuable skills and workers from the workforce, when the aging population is already reducing the workforce available. While keeping older workers in the workforce for longer can partially offset this loss, the rate of change in technology means this may not fully offset the skills lost by losing younger workers.

  In the event of a divorce and child support being required from one of the parties, the availability of a tax deduction to that party might encourage more reliable payment and reduce the time wasted by parents, the Child Support Agency and the Tax Office in dealing with strategies to minimize income for child support purposes.

- To partially offset the cost of tax deductions for childcare expenses, the baby bonus should be cancelled. To the extent that it works, it presumably does so by encouraging people who are not otherwise in a position to afford to raise children to have them. In other cases the payment does not influence the decision to have children but transfers revenue dollars to people who do not need such support. Maternity leave provisions should be used to address the need for financial support at the time of the birth of children. The real struggle for parents comes later with the financial and other stresses of bringing up and educating children when they are 2 years and older and tax deductibility of child care expenses could go a long way towards addressing this.

3. Changes to allow the upgrading and development of new public infrastructure

- Return GST collected to the state from whose residents it was collected. Any redistribution of GST to state governments not in proportion to that collected from their residents imposes proportionally higher tax administration costs on businesses within the state not being returned its full share. This is inequitable and distorts the allocation of resources across the Australian economy.

- Require a specified percentage of every superannuation fund's investments to be in the form of Commonwealth or State government bonds, thereby channeling a proportion of long-term investor funds to projects requiring long-term commitment and financial support from government before the project can pay for itself. This could be used to develop much needed transport and water infrastructure and even affordable housing. The loan could be repaid by sale of the infrastructure on completion or out of usage fees charged where the infrastructure is retained by government. By allowing the superannuation funds to choose project specific bonds the Australian population could influence the choice of projects.

  There used to be such a requirement for investment in government securities by superannuation funds to qualify for the lowest tax rate, and, with the current stock market problems, it is unlikely that superannuation fund members would object to its return if the introduction allowed a two or more year period for adjusting assets. Given the large amounts now required to be invested in superannuation, this would enable ongoing funding for many projects.

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