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Treasury
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31 January 2025

Dear Sir/Madam

2025-26 Pre Budget Submission

BDO refers to the invitation by the Assistant Treasurer and Minister for Financial Services, to submit ideas and priorities for the 2025-26 Federal budget. BDO welcomes the opportunity to lodge a submission containing the firm's views in this regard.

Meaningful and **holistic tax reform** has been the topic of much discussion in the tax profession and media for many years and is still an important topic for advisers and clients alike. wholesale tax reform is vitally important to ensure that the tax system in Australia is fit for purpose in collecting sufficient tax revenue to fund essential government activities, while ensuring that tax is being collected from the most appropriate sources, maintaining Australia's attractiveness as a destination for business and investment, and in maximising productivity.

BDO has been calling for a **holistic review of the Australian tax system** for many years. In our opinion, the major view that underpins the need for holistic tax reform is to produce an unambiguous tax system that also provides a fair and efficient means of revenue for the Australian Federal and State Governments.

BDO recommends there should be an ongoing consideration of tax reform by the establishment of an independent **'Tax Reform Commission'** to ensure that tax reform remains an ongoing process. This Commission could incorporate the Board of Tax's role but having a wider remit covering both Federal and State taxes. There should also be a statutory requirement on Federal and State Governments to document and publicly publish, within a reasonable timeframe, their consideration of the Commission's recommendations and reasons for accepting or rejecting the recommendations.

Until a holistic review of the Australian tax system is undertaken there are numerous issues with the existing Australian tax system that require consideration. BDO's recommendations and comments in this regard are summarised in the table following and with further detail in Appendix 1.

Category	Recommendation
Company Tax	**Corporate Tax Rate should be reduced from 30% to 25% for all corporate tax entities.** This will maintain Australia's attractiveness as a destination for domestic and international capital. As a reference point, the 2024 edition of the *OECD Corporate Tax Statistics* noted an average corporate income tax rate of 21.1%. The existing two-tier corporate tax system is also causing double taxation in certain circumstances where franking credits are trapped. Further administrative complexity arises for base rate entities in determining eligibility and in managing the tax implications of distributing profits to shareholders.
Superannuation Contribution Caps	BDO recommends a review of the superannuation contribution caps including increasing the concessional and non-concessional contributions caps in such a way that makes the superannuation system more equitable. At present those who have only been able to build up wealth in later life are being penalised by being treated the same way as those who have access to wealth from a young age (e.g. via family wealth). A more equitable system may be achieved through a combination of increasing contribution caps in tandem with a lifetime cap for individuals with superannuation balances below certain levels.
Small Business Concessions	Recommend a review of the suite of small business income tax concessions and small business capital gains tax concessions, with reference to the 2019 Board of Taxation Review. In particular, BDO recommends alignment of the aggregated turnover thresholds for the small business income tax and capital gains tax concessions for ease of application. BDO would like to see efforts made to simplify the small business CGT concessions making them clearer and more appropriate for application in practice by small businesses and their owners. In particular, the $6 million maximum net asset value test has been an area of significant complexity and much contention.
Capital Gains Tax	Recommend a review of the application of **CGT Event E4** to interests in unit trusts. The application of CGT event E4 to reduce an interest holder's cost base or trigger a capital gain can create harsh tax outcomes and is an area of tax that is overlooked altogether by some taxpayers and advisers, particularly in relation to timing differences. BDO recommends consideration of an **'overs and unders'** mechanism, similar to the mechanism for Attribution Managed Investment Trusts (AMIT).

Please see Appendix 1 for more details on these recommendations. Should you have any questions or wish to discuss any of the comments made in our submission, please do not hesitate to contact me on 02 9240 9736 or via email (lance.cunningham@bdo.com.au).

Yours sincerely

BDO Services Pty Ltd

Lance Cunningham

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BDO National Tax Technical Leader

Appendix 1

Corporate Tax Rate

Australia’s political stability, quality infrastructure, and regulatory climate make Australia an attractive place to invest and do business. However, Australia’s tax rate does need to be competitive. The average corporate tax rate per the OECD Corporate Tax Statistics 2024 was 21.1% in 2024, noting a reduction from 28.2% in 2000 (Link to: OECD Corporate Tax Statistics 2024 OECD Corporate Tax Statistics 2024). BDO recommends a reduction of the general corporate income tax rate from 30% to 25% for all corporate tax entities to more closely align with tax rates in other jurisdictions.

The lower 25% corporate tax rate applicable to base rate entities does provide some cash flow benefit for small businesses, provided that profits are retained in the business. In BDO’s experience to date, most shareholders of base rate entities are Australian residents, receive no tax relief when accessing the company profits via dividends as the total tax paid is at individual marginal tax rates. Although they receive a tax offset on the 25% franked dividend paid by the company, the top-up tax they pay is greater than if they received a dividend franked at 30% top-up tax. This results in the 5% reduction in company tax being effectively clawed back with additional tax paid by the shareholder of the base rate company.

A two-tiered corporate tax system can also result in double taxation in some instances in the form of trapped franking credits. This arises where a base rate entity has accumulated historical profits taxed at 30% or where such an entity is the recipient of dividends franked at 30%, and the entity is limited in releasing franking credits due to its maximum franking rate being 25%. Trapped franking credits effectively result in double taxation to the extent that franking credits are trapped in additional top-up tax.

BDO suggests that the government consider reducing the corporate tax rate to 25% for all corporate tax entities. This will make Australia more competitive and will alleviate the complexities associated with a two-tiered tax system. Additionally, BDO recommends that a mechanism be introduced allowing taxpayers to release trapped franking credits.

Increased Superannuation Contributions Caps

The objective of Superannuation was legislated as being “*to preserve savings to deliver income for a dignified retirement, alongside government support, in an equitable and sustainable way*”.. To do this it is necessary for individuals to have the opportunity to make adequate contributions to superannuation, and to earn sufficient returns on the funds invested in their superannuation over their working lifetime.

The existing superannuation contributions caps restrict many individuals from the opportunity from making adequate superannuation contributions to deliver income for a dignified retirement, particularly where the individuals are not capable of making superannuation contributions up to the contributions limits until later in their working lives. The current system is a one size fits all approach, penalising those without access to sufficient funds early in life to make contributions up to the contribution limits.

BDO recommends that superannuation contributions caps be adjusted such that individuals with lower superannuation balances should be able to make higher contributions to increase their superannuation balance.

Specifically, BDO recommends that one or all of the following be considered:

- An unlimited non-concessional contributions cap for taxpayers with superannuation balances below $1 million;
- Replacing annual contribution caps with life-time superannuation contributions caps for both concessional and non-concessional contributions; and
- Increasing the unused concessional contributions cap carry forward period to 10 years.

The above measures should provide taxpayers more flexibility to make superannuation contributions as funds become available and life circumstances allow, making the superannuation system more equitable. Noting that it is not uncommon for individuals to look to boost their superannuation contributions later in life.

Small Business Concessions

Small businesses vary vastly in their sophistication and understanding of the tax law. The complexity of the tax rules and the possibility of falling foul of these rules can present very real commercial risks to these businesses, particularly in situations where the risk to the Australian tax net is limited.

Thresholds for Small Business Income Tax Concessions

Turnover thresholds applicable to the small business CGT concessions and income tax concessions vary broadly between various small business income tax concessions. For example, $2 million for small business CGT purposes, $10 million for small business income tax concessions, and $50 million for the small business trading stock concessions. BDO recommends alignment of these thresholds to increase simplicity and to increase the taxpayers to which they are available. BDO also recommends reviewing the small business CGT measures. Further detail in relation to this is set out below.

Small Business Capital Gains Tax Concessions

The small business capital gains tax concessions are some of the most complex provisions in the income tax legislation. As a result small businesses struggle with their application without significant specialist adviser assistance or intervention.

Alignment of aggregated turnover thresholds

As noted above, alignment of the various small business aggregated turnover thresholds would be a useful starting point. BDO suggests increasing the small business CGT aggregated turnover threshold to $10 million to align with the various small business income tax concessions and restructuring provisions in Subdivision 328-G of the ITAA 1997.

$6 million net asset value test

The $6 million net asset threshold is extremely complex in its application, particularly where interests in small businesses are held via companies and trusts. The application of this test is the cause of significant compliance costs and risk for taxpayers in applying it.

The test is also limited in its operation in assuming that the net assets of a small business entity and its associates reflects the size of the business itself. Further, the tracing required to determine entities that are controlled by a given taxpayer and their respective net asset positions is extremely convoluted.

In applying the threshold, vastly different tax outcomes can arise for taxpayers whose net asset value is marginally above and below the threshold which seems fundamentally unfair. The threshold also provides taxpayers with tax planning opportunities with regard to the market value of assets and liabilities.

Holistic changes to the small business CGT concessions

BDO recommends that Treasury revisit some of the recommendations made in the Board of Taxation's 2019 '*Review of Small Business Tax Concessions*' and specifically repealing the 15-year exemption, active asset reduction and retirement exemptions and introducing a single CGT exemption subject to a cap or threshold. Such a threshold may include the following:

- Application to small businesses with aggregated turnover of less than $10 million; and
- Limiting exempt capital gains to a certain threshold e.g. $2 million per taxpayer

It is expected that this approach will achieve the following:

- Ensuring that taxpayers who are genuinely small business taxpayers are still entitled to relief under the measures;
- Preventing inappropriate claims under the small business CGT concessions;
- Continuing to incentivise small businesses to invest in future growth; and
- Providing a mechanism to ensure that successful small business owners continue to be rewarded on selling their business.

Capital Gains Tax

CGT Event E4

CGT Event E4 is triggered when a taxpayer who has an interest in a trust receives a non-assessable amount from the trust in relation to that interest to the extent that non-assessable payments received exceed the taxpayer's cost base.

Non-assessable distributions arise from permanent and temporary differences in accounting and tax treatments. As an example, accelerated depreciation claims may result in a lower net income position for tax purposes than accounting purposes. In this instance, where the accounting income is paid out in full, the lower net income for tax purposes may result in a reduction in cost base or a capital gain, depending on the quantum. CGT event E4 is one sided in its application in that there is no reversal or account keeping mechanism in situations where a trust's net income for tax purposes exceeds its net accounting income.

In BDO's experience, CGT event E4 is a complex area and one that some taxpayers and advisers overlook altogether. To improve parity, BDO suggests that Treasury may like to consider aligning the treatment of non-assessable distributions from trusts in a similar way to the AMIT regime in allowing unitholders to record cost base adjustments for overs and unders with any capital gain or loss to be accounted for on disposal of the relevant interest. Alternatively, Treasury may wish to consider resolving these issues as part of a broader review of the trust taxation rules.