

Board of Taxation – Small Business Tax Concessions Review
HLB Mann Judd Sydney – General Comments

1. A lower company tax rate is helpful for cashflow, but there is the problem of losing benefit of franking credits when retaining profits previously taxed at 30%. While understanding that transitional rules to address this may have the cost of added complexity, we would have liked to see if a compromise could be found. Perhaps allowing companies the option to keep two separate franking accounts, or not changing the franking rate until **the year after** the change in applicable company tax rate, helping them retain access to all of their old franking credits.
2. Small business CGT concessions – a common, but often overlooked, problem that causes taxpayers to fail the basic conditions is where individuals or trusts have different share classes (usually involving “dividend access” shares) so that there can never be a significant individual. It would be helpful if there were alternative tests, e.g. a pattern of distributions test similar to that contained in the trust loss rules, which in some cases would allow percentage ownership to be attributed to specific shareholders in these situations. This would allow some flexibility in distributing dividends without necessarily putting in place more complex structures involving multiple companies and discretionary trusts on top of the actual trading entity/(ies).
3. It would also be welcome if the Div 152 thresholds of \$2m aggregated turnover and \$6m Net Asset Value were to be increased at some stage, subject to modelling the revenue impact of doing so, as over time more and more small businesses will exceed these limits. As alluded to in the consultation paper some phasing in of the thresholds may also help, although again this may come at the cost of added complexity, and may not on balance be worthwhile.
4. The \$20,000 instant asset write-off has been well received, and consideration should be given to making it a permanent feature for small businesses.
5. As a general comment we agree that simplicity and reducing the compliance burden is a key aim for small businesses, and also that offering concessions throughout the full life cycle of the business, rather than just on start-up or at the end of the business cycle, is preferable.
6. Certainty and flexibility are also helpful, so we would like to see the proposed amendments to Division 7A legislated and implemented. Obviously we recognise that the legislative program, and the passing of legislation, are matters outside the BOT’s control.

For further comments or if you have any questions please contact me as below:

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