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2 August 2012

Ms Christine Barron
General Manager
Business Tax Division
The Treasury
Langton Crescent
Parkes ACT 2600

Dear Ms Barron,



I write to you in relation to the Discussion Paper: *Improving Access to Company Losses*.

Business SA is South Australia's leading business membership organisation, representing thousands of businesses through direct membership and affiliated industry associations. We represent businesses across all industry sectors, ranging in size from micro-business to multi-national companies. Business SA advocates on behalf of business to propose legislative, regulatory and policy reforms and programs for sustainable economic growth in South Australia.

Business SA supports changes to the tax treatment of losses that will improve cash flows for businesses during times of economic downturn, structural change or unexpected shocks. It is important that the tax changes reduce disincentives to invest, innovate and take calculated risks and thereby improve productivity.

The proposed tax loss carry back measure should assist many companies and particularly those companies that are generally profitable, but suffer losses due to cyclical downturns or when adjusting to structural change, such as when undertaking investments to improve productivity.

Business SA is disappointed that the measure will not extend to unincorporated businesses, but understands the difficulties, such as additional administrative costs, in providing the measure to businesses outside of the company tax structure.

Business SA agrees with the proposal to implement the tax loss carry back measure through a refundable tax offset in the claim year.

For consistency with the situation when losses are carried forward, as well as for administrative simplicity, Business SA believes that the company tax for the utilisation/claim year should be used when calculating the refundable tax offset.

The issue of integrity rules to ensure that businesses do not undertake tax driven activities, yet still allows businesses to invest and take calculated risks, is a complicated one. There are positives and negatives associated with keeping the continuity of ownership test and the same business test, or revising them, or replacing them with alternative tests, such as available fraction rules or drip feed mechanisms.

However, given that less than three weeks was provided to respond to the Discussion Paper, it has not been possible to gather views from Business SA's membership on this issue. Given that this is also an issue which requires specialist taxation knowledge to provide genuinely informed comment, three weeks is not enough time to engage an appropriate consultant, develop terms of reference and have a report written.

It is disappointing that inadequate consultation processes are becoming all too common on issues of importance to the business community.

Should you require any further information or have any questions, please contact Rick Cairney, Director of Policy, Business SA on (08) 8300 0060 or rickc@business-sa.com.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Nigel McBride', written over a circular stamp or seal.

Nigel McBride

Chief Executive Officer