



Australian Government



Australian
**Small Business and
Family Enterprise**
Ombudsman

27 February 2018

Senior Adviser
Small Business Entities and Industry Concessions Unit
The Treasury
Langton Crescent
PARKES ACT 2600

By email: SBCGTintegrity@treasury.gov.au

Dear Sir/Madam

IMPROVING INTEGRITY OF THE SMALL BUSINESS CGT CONCESSIONS

Thank you for the opportunity to submit comments on the Exposure Draft for the *Treasury Laws Amendment (2018 Measures) Bill 2018*. The Australian Small Business and Family Enterprise Ombudsman represents the concerns of small businesses and family enterprises in Australia, and reviews key policies, legislation and industry practices that impact on the small business sector.

The small business CGT concessions ease the tax burden for small business and provide additional cash flow to re-invest and grow. As the changes in the Bill are an integrity measure to ensure that larger businesses do not inappropriately access the concessions, it is important that they do not operate to limit access to genuine small business. There are three ways that the changes may deny access to small business and these may be resolved, for example, by amending the rules or granting a Commissioner's discretion in appropriate circumstances:

1. Financial caps

There is a question whether the financial caps of \$2 million turnover and/or \$6 million net asset value are too low. Given recent changes that use a turnover figure of less than \$10 million, consideration could be given to lifting these amounts, particularly the \$6 million net asset value that may be exceeded by relatively small businesses.

2. Controlling interest

Lowering the controlling interest threshold from 40% to 20% increases compliance costs for those appropriately accessing the concessions and can also operate to exclude access by legitimate small businesses.

3. Carrying on business immediately prior to a CGT event

For company shares and trust interests, a relevant entity must carry on a business just before the CGT event. There are a range of genuine reasons why this strict requirement may be unmet, such as for illness of a small business owner.

We believe that consideration should be given to addressing these restrictions in appropriate circumstances and I would be happy to discuss any of these matters with you. Please feel free to contact Jill Lawrence on 02 6263 1558 or email Jill.Lawrence@asbfeo.gov.au.

Yours sincerely

Kate Carnell AO

Australian Small Business and Family Enterprise Ombudsman

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