

SBCGTintegrity

From: David Hickmott <DHickmott@finkhick.com.au>
Sent: Tuesday, 27 February 2018 8:28 PM
To: SBCGTintegrity
Subject: Enquiry about: Improving the integrity of the small business CGT concessions

Categories: Saved

Thank you for the opportunity to provide feedback in connection with the proposed small business CGT integrity provisions.

Firstly I need to express my concern that the proposals represent a change to Tax Law , and are clearly much more than an integrity measure.

Secondly , I believe that , for the drafted legislation to have taken 9 months to prepare , and then for the consultation process to be open for 3 weeks , on such an important change , there has been a cynical abuse of process and power.

That aside ,here a collection of observations , presumably unintended consequences and suggestions for your consideration.

1.The changes produce significantly different tax results depending on whether taxpayers are structured through a Company or Partnership. For example a Business equally owned by three people worth \$9M would potentially be tax free to the three owners if they were in partnership ,however produce a tax liability of around \$2M if they sold their shares in a Company. That is an inequitable for the holders of a legitimate business structure.

2.Small Business owners have been operating under a regime for almost 20 years that provided an incentive to invest their time , money and resources in their businesses . The concessions were introduced to recognise the significant contribution small business plays to Australia. To have a devastating cut-off imposed is unjust. When the CGT discount was removed for non-residents , sensible protection was introduced to preserve the tax status of their pre and post situations . A similar protection must be included with this change of policy . For example if a small business owner prior to budget night last year would have qualified for the concessions , they should be entitled to at least a partial exemption in the future. For example if they have run their business for 20 years (15 prior to budget night last year and 5 post) they should get a 75% reduction to the assessable gain. Alternatively existing shareholders should be grandfathered in connection with their qualifying shares at Budget night last year.

3.The exposure draft includes a concept relating to the modified active asset test that cash held as trading stock can be included . Where does this ridiculous concept come from ? Is it actually referring to cash used for working capital ? This whole area needs to be reviewed and generally accepted terms be used.

4. I believe that it is more sensible that 3 unrelated people who set up a Business worth \$15M , should left in the same tax position as an individual who grows their Company to be worth \$5M . Clearly at present there is a huge disparity with the proposed changes.

5. The proposed legislation puts taxpayers who legitimately structure their businesses through Companies or Trusts at a significant disadvantage.

I implore you consider my comments and also the representations of the professional accounting bodies , and significantly amend or delete the proposed amendments. In particular those that produce the inequities highlighted and what would appear to be unintended consequences.

Yours faithfully,

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