

Attention Mr Nick Seal or Ms Louise Lilley
Review of Tax Impediments to Small Business
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AMIF submission on Review of Tax Impediments facing small business

Dear Review Team Members,

Thank you for the opportunity to provide a submission in relation to the review of Tax Impediments facing Small Business by the Board of Taxation. AMIF also welcomed the opportunity to discuss this important review during consultations with the Review team and the Tax Board and Treasury Officers recently in Canberra. This submission is an expansion of the central themes posed by AMIF during those discussions.

The Australian Motor Industry Federation (AMIF) is the pre-eminent body representing the interests of over 100,000 retail motor trades businesses, which employ over 310,000 people and have an aggregated annual turnover in excess of \$208 billion. These figures, combined with the industry's scope and size, makes the retail motor trades the largest stand-alone small business sector in Australia. The Federation's membership consists of the automobile chambers of commerce and the majority of state and territory motor trades associations. It is these associations members who stand to gain the most from the work of the Review and any improvements to identified impediments to the Tax System and compliance with that system.

AMIF's Position:

General

- AMIF is of the strong belief that tax impediments facing small business cannot be properly examined from a purely Commonwealth perspective.
- Small business sustainability and growth in the retail, service, repair, recycling and associated sectors of the Australian automotive industry are inextricably linked to State and Territory tax regimes and the imposition and inconsistency of these regimes on small business.
- The compliance burden is amplified by the combination of requirements of State / Territory and Commonwealth tax regimes.
- AMIF suggests the forthcoming 'White Paper' on Taxation Reform must examine the relationships between the Commonwealth and State and Territory tax systems and their combined contribution to inhibiting small business growth.

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**REPRESENTING:** * Motor Traders Association of NSW (MTA-NSW) * Victorian Automobile Chamber Of Commerce (VACC) * Motor Trades Association of NT (MTA-NT) * Tasmanian Automobile Chamber of Commerce (TACC) * Motor Trades Association of SA (MTA-SA) * Motor Trades Association of ACT (MTA-ACT) * Motor Trade Association of WA (MTA-WA) * Motor Trades Association of Australia (MTAA) * Automobile retailers * Australian Motor Body Repairers Association (AMBRA) * Automotive Repairers Association of Australia (ARAA) * Auto Parts Recyclers Association of Australia (APRAA) * Australian Motorcycle Industry Association (AMIA) * Australian Service Station and Convenience Store Association (ASSCSA) * Australian Tyre Dealers and Retreaders Association (ATDRA) * Farm and Industrial Machinery Dealers Association of Australia (FIMDAA) * Engine Reconditioners Association of Australia (ERA of A) * National Rental Vehicle Association (NRVA) *Australian National Radiator Repairers Association (ANRRA) * Australian National Towing Association (ANTA) *Automotive Transmission Association of Australia (ATAA) *National Brake Specialists Association (NBSA) * National Heavy Vehicle Repairers Association (NHVRA) * National Steering and Suspension Association (NSSA) * National Vehicle Airconditioning Association (NVAA)

AMIF's Position: (Continued)

- AMIF calls for the abolition of State and Territory taxes including State Payroll Taxes and Stamp Duties as these create artificial barriers to business growth and act as a clamp on investment.
- AMIF calls for the abolition of the Luxury Car Tax (LCT) as an unnecessary tax providing added compliance burden for new car franchised motor dealers.
- AMIF suggests stronger engagement and consultation between Government decision makers and peak industry organisations during policy, regulatory or rule change investigations – including repeal - so that the true impacts on small business sectors can be properly identified and risks mitigated.
- AMIF suggests there remains room for improvement in the ‘paperwork’ (be it on-line or hard copy), necessary for tax compliance with ongoing recognition of the resource constraints of small business to manage multiple jurisdiction systems. AMIF recommends that the White Paper on tax reform identify the quantum of small business compliance requirements.
- AMIF suggests Capital Gains Tax concession rules and access to those rules be simplified for small businesses.
- Suggested changes to Division 7A should be brought forward to mitigate the burden of compliance many small businesses face by operating through trusts.
- Small business tax concessions need to be simplified and a tiered approach to thresholds be examined in recognition of the diversity of small business. At a minimum AMIF supports the recommendation of the Henry Tax review that the \$2m threshold be lifted to \$5m and that a review should be conducted into the net assets test threshold.
- The new Small Business and Family Enterprise Ombudsman must be empowered to define small business so that there is harmonisation of the definition of small business nationally and across jurisdictions and policy areas including taxation.

Discussion:

The overall impediment to small business

- AMIF and its predecessor organisation the Motor Trades Association of Australia (MTAA Limited) has a long history of deep interest and involvement in small business and has participated in most reviews and investigations into taxation and its impact on small business.
- While it recognised that many impediments to small business have been addressed over time, AMIF maintains there is still considerable work to be done in ensuring the compliance burden to small business is minimised and the tax systems are simplified.
- While AMIF understands and respects the constitutional right of States and Territories to self determine, including the raising of revenue, a chief impediment to small business growth and sustainability is the nexus between State and Territory and Commonwealth tax regimes.
- The retail, service, repair, recycling and associated sectors of the Australian automotive industry are facing generational change of an unprecedented nature. Businesses are closing and others are fundamentally changing models of operation in response to numerous global and domestic influences.

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- During such change, the ability of businesses forced to restructure is dependent on many factors including: gaining access to finance; reducing costs; reducing compliance burdens; simplification of regulatory requirements and removal of barriers to growth and sustainability.

Examples of barriers to growth and added compliance burden

- For example some businesses choose not to grow as a direct result of the imposition of State and Territory tax regimes. While it is understood the Tax Board is primarily concerned with tax impediments to small business within the Commonwealth jurisdiction, it is the imposition of some taxes and duties at a State and Territory level that is hampering growth and sustainability of small business.
- AMIF is aware of some cases from within its membership where small businesses have made a conscious decision to not grow and curtail investment due to the imposition of payroll tax and stamp duties.
- The payroll tax creates an artificial and unnecessary tax barrier to growth and should be abolished. Similarly the imposition of stamp duty is curbing investment, particularly with businesses looking to expand their business footprint.
- It is not only the existence of such taxes, but significant variations between jurisdictions on how they are applied. This is not only impacting growth, but also arguably distorting markets and reducing competitiveness.
- In one state the Stamp Duty applicable on the sale of a motor vehicle is 3%, while in another it is 6.5% for exactly the same vehicle.
- The presence of these forms of taxation also increase the compliance burden and restrict the simplification of the overall tax system.
- Another example of unnecessary tax compliance is for an unnecessary tax in the Luxury Car Tax (LCT). AMIF supports the Henry Review recommendation that it be abolished. The reduction in compliance to new car franchised motor dealers should not be underestimated.
- AMIF hopes the forthcoming White Paper on taxation will examine the issue of tax simplification and explore the nexus between Commonwealth and State / Territory regimes.

Improved consultation and understanding of sector specific issues

- Peak industry organisations need to be engaged and consulted at the outset when policy and regulatory changes are contemplated. Failure in this area, particularly when it concerns specific industry sectors or sub-sectors, can add enormously not only to the compliance burden of businesses in that sector, but also to Government: increasing costs for all concerned and reducing productivity and effectiveness of the national economy.
- A recent example is a court judgement relating to the application of GST and LCT to rebates or incentive payments between a automobile manufacturer and dealer. It is clear from feedback from industry sector participants and subsequent conversations with representatives of the Tax Office, that communication and treatment options for an ATO ruling on that court judgement were less than ideal. There was a lack of recognition that to meet the compliance requirements the draft ruling entailed, it would require significant changes to the operating systems of some dealerships. Financial modelling of the intent of the ruling was cumbersome and rectification of these issues also time and resource consuming.

- While it is recognised the ATO were required to deal with the outcome of court and provide clarity and requirement; and that this was required as quickly as possible; had the ATO engaged earlier then some of the issues could have been mitigated if not removed entirely.
- Subsequent consultations also revealed that the judgement and resulting ruling will have other impacts, previously not known. Solutions were able to be identified and rectification is possible, but only after considerable confusion and after a compliance impost had been created.
- This is just one matter, for one sector, of one industry already undergoing fundamental change in a highly volatile and competitive environment. AMIF is likewise aware of similar situations, which when added to the rapid changes made to requirements in other jurisdictions, makes the task of compliance almost impossible.

Improvements to Capital Gains Tax (CGT) and Fringe Benefit Tax

- As previously mentioned many of AMIF's member businesses are undergoing fundamental and generational change. This is involving significant restructuring and, in some cases, succession within family enterprises. Of critical importance is reviewing issues surrounding the Capital Gains Tax – particularly its restrictions and impediments in achieving successful transition and restructuring.
- Many businesses operate through family trusts as a means of legitimately managing CGT application and allowing orderly transition from, particularly, one generation to the next. The proposed changes to Division 7A of the *Income Tax Assessment Act* may address some these issues, but their postponement to 2016 is not supported.
- The Tax Board and Treasury should appreciate that sectors such as those in the Australian automotive industry will be reliant on ease of access to CGT concessions and simplified concessions to small business. Thresholds should be examined and treatment options should be developed particularly for sections of Australian industry that are undergoing generational change.
- The Fringe Benefit Tax is cumbersome and resource consuming. AMIF contends that significant compliance burdens associated with FBT could be mitigated if the ATO were to re-examine requirements and re-visit compliance obligations.

Future definition of Small Business, Family Enterprises, Micro Businesses Etc.

The Australian Motor Industry Federation advocates whole of government approaches to policy determination and legislative and regulatory reform that impact the automotive industry's retail, service, repair, recycling and associated sectors and the largest stand-alone small-business sector in the nation.

AMIF welcomes the initiative of the Small Business and Family Enterprise Ombudsman and suggests that the creation of this Office provides an opportunity for a streamlining of many of the issues facing small business including tax reform and impediments to growth and sustainability.

AMIF suggests that the Ombudsman be empowered to define small business for government policy and regulatory environments including taxation. AMIF suggests that with appropriate definition across all jurisdictions and in recognising the various components of the small business engine room of the economy, better decision making, more consistent approaches, a more effective economy, and reduced impediments will result.

If there are any further questions or you would like further clarification on the points raised within this submission, please contact Mr Richard Dudley, CEO of AMIF at richardd@amif.com.au or Mr Colin Duckworth, Director Policy at colind@amif.com.au.

Yours sincerely

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Australian Motor Industry Federation
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