



Business Set-up, Transfer and Closure Review
Productivity Commission
GPO Box 1428
Canberra ACT 2601

Dear Sir/Madam,

Productivity Commission: Business set up, transfer and closure draft report

In the Australian Trucking Association's (ATA) submission to the Productivity Commission (PC) business set up, transfer and closure inquiry submitted in February the ATA provided industry concerns about establishing, running and transferring a business in Australia. The PC's report has reflected the concerns raised by stakeholders, particularly in the detailed section on business compliance costs.

The ATA submission recommended:

- Improving the business environment for small business by increasing the small business threshold to \$3 million and investigating the feasibility of an increase to \$5 million.
- An investigation of how to alleviate the effect of stamp duties on business growth.
- That capital gains tax should not be levied on business ownership transfers within families.

Capital gains tax

In the previous ATA submission, we stressed the burden of capital gains tax (CGT) on family businesses transferring the company to the next generation and the negative effects it has on business optimisation.

The Productivity Commission recognises that current CGT concessions are complex for small business and recommends, in line with the Henry Tax Review, to streamline capital gains tax concession arrangements.¹

The Henry review recommended rationalising and simplifying CGT by allowing taxpayers who sell a share in a company or an interest in a trust that is a small business entity to access the concessions using the turnover test. The PC supports this recommendation, as under the current arrangements concessions can only be accessed under the maximum net asset value test. Under the recommendation, owners of businesses who already access the other small business concessions will not need to determine eligibility under the maximum net asset value test, and instead rely on the same test used to access the other small business concessions.

¹ Productivity Commission *Business Set-Up, Transfer and Closure draft report*, Accessible at <http://www.pc.gov.au/inquiries/current/business/draft/business-draft.pdf>, May 2015, Page 18

Accordingly, we support PC draft recommendation 12.2:

The current small business capital gains tax concessions should be rationalised. The White Paper on the Reform of Australia's Tax System should consider the recommendations of the Henry Tax Review relating to small business capital gains tax relief with a view to the effectiveness of implementation, avoidance of unintended consequences and ensuring consistency with broader tax policy.²

Other PC recommendations

Harmonising business costs

The PC draft report includes other recommendations that while not being the main focus of the ATA, should be implemented to improve the business environment in Australia.

Draft recommendation 3.1 targets benchmarking business set up costs as highlighted in the PC previous reports on business regulation.³

Draft recommendation 3.1

Governments, particularly those at a state, territory or local level, should fully and promptly implement the leading practices and recommendations from the Commission's previous reports on business regulation, including:

- Performance Benchmarking of Australian Business Regulation: Cost of Business Registrations (2008)
- Performance Benchmarking of Australian and New Zealand Business Regulation: Food Safety (2009)
- Performance Benchmarking of Australian Business Regulation: Occupational Health and Safety (2010)
- Performance Benchmarking of Australian Business Regulation: Planning, Zoning and Development Assessments (2011)
- Performance Benchmarking of Australian Business Regulation: Role of Local Government as a Regulator (2012)
- Regulator Engagement with Small Business (2013)

Removing distortions between business structures

The PC draft also highlighted the distortions the tax system presents to different business entities, including the costs and complexity involved in selecting a business structure to minimise taxation burden instead of maximising economic profit. The ATA endorses draft recommendation 4.1 which supports a consistent approach to the taxation of business entities regardless of ownership structure and size to address the complexity.

The PC recommendation would also address the Division 7A issues surrounding trusts.⁴

Draft Recommendation 4.1

In principle, there should be a consistent approach to the taxation of business entities regardless of their ownership structure and size. The White Paper on the Reform of Australia's Tax System should consider in particular:

- the taxation of trusts used primarily for business purposes

² Productivity Commission *Business Set-Up, Transfer and Closure draft report*, Accessible at <http://www.pc.gov.au/inquiries/current/business/draft/business-draft.pdf>, May 2015, Page 296

³ Productivity Commission *Business Set-Up, Transfer and Closure draft report*, Accessible at <http://www.pc.gov.au/inquiries/current/business/draft/business-draft.pdf>, May 2015, Page 77

⁴ Productivity Commission *Business Set-Up, Transfer and Closure draft report*, Accessible at <http://www.pc.gov.au/inquiries/current/business/draft/business-draft.pdf>, May 2015, Page 105

- the tax treatment of profits and losses and the feasibility of a simpler entity for small business that would combine features of existing structures.

Conclusion and summary

In its final report, the Productivity Commission should include recommendations:

- 12.2, which will rationalise and simplify capital gains tax concessions,
- 3.1, which will harmonise business set costs via benchmarking across jurisdictions.
- 4.1, which supports a consistent approach to the taxation of business entities regardless of ownership structure and size to address the complexity.

Please contact Bill McKinley, National Manager, Government Relations and Policy if you need to discuss the content of this letter

Sincerely,

Christopher Melham
Chief Executive Officer
6 July 2015