Name: KPMG Australia

Submission date: 6/06/2025

1. Support business investment through corporate tax reform

1. What features of the Australian business environment have encouraged or restrained investment over the past 10 years?

Australia’s stable political, legal, and economic frameworks have been key drivers of investment over the last decade. The strong democratic institutions and transparent legal system have provided a secure foundation for both domestic and foreign investors, ensuring the protection of property rights and the enforcement of contracts. Additionally, Australia's economic policies have contributed to steady economic growth and low inflation rates. These factors, combined with strategic trade agreements and an open market economy, have made Australia an attractive destination for investment.
While there are several features of the Australian business environment that have restrained investment, we draw particular attention to Federalism, given we consider the allocation of responsibilities for expenditure between the states and federal governments is intrinsically wedded to tax reform. Federalism has an inherent tension – on one level it is a vision of a shared future, common welfare and security; on another it reflects the desire to protect regional diversity and autonomy. With this tension comes issues of complexity and inconsistency of rules and regulations across different states and territories. Additionally, overlapping responsibilities between governments can lead to delays in decision-making and the implementation of policies, affecting the efficiency of projects such as in the infrastructure sector.
Australia’s research & development (R&D) systems are also crucial to encouraging investment. Australia’s R&D spending as a share of GDP was 1.7 percent in 2021, below the OECD average of 2.7 percent. Current policies and programs lack cohesion, resulting in a fragmented and sometimes contradictory R&D ecosystem. KPMG supports a holistic review of the R&D support programs in Australia, and believes real change is required in order to support productivity growth and investment. We have outlined further insights and recommendations on this topic in our recent submission to the Strategic Examination of Research & Development.

2. What elements of the corporate tax system encourage and/or discourage investment and risk-taking?

Company tax as a revenue base contains some strong and difficult tensions. As a medium sized nation dependent on foreign investment, Australia has a very high company tax rate which makes it less competitive in attracting capital. While lowering the rate would not be easy given the dependence on the base for revenue, a fall in the company tax rate should promote higher foreign capital investment which would change the level of capital intensity or deepening in the Australian economy. This in turn would lead to higher productivity and, hence, greater real wages.
The corporate tax rules in Australia are highly complex and there is considerable scope for simplification in this area. While the tax legislation has been substantial for many decades, the complexity has been exacerbated in recent years through the implementation of an increasing number of integrity measures (often overlapping in their operation). Complexity results in uncertainty and a higher cost of doing businesses –

these can be particular investment barriers for foreign investors and local small and medium businesses.

Uncertainty also manifests when new measures are proposed which substantially impact existing investment without commensurate transitional relief. An example here is the proposal to change the foreign resident capital gains tax (CGT) rules to widen the types of assets that may be subject to foreign resident CGT on a retrospective basis. Australia relies heavily on foreign investment to provide capital to finance and develop our economy, including driving productivity and creating jobs. As such, due consideration must be given to the impact on foreign investment, particularly where tax settings are changed with no transitional relief, which impact existing investments that were made and priced based on existing laws.

Added to this is the delay commonly encountered with implementing new measures given limited Treasury resources dealing with a backlog of Government announcements. Taking again the proposal to change the foreign resident CGT rules, this was originally announced in the 2024 Budget with a start date of 1 July 2025. However, this measure is not yet enacted and in fact draft legislation not yet released. The start date was then deferred as announced in the 2025 Budget. This makes it difficult for investors to make investment decisions and undermines investor confidence.

There is a growing list of such announced but unenacted measures. Where new measures are announced with an insufficient lead time for the start date, legislation is often delayed or is rushed without appropriate time for consultation, which can lead to poorly drafted laws that create uncertainty as to their operation and administration. This could be in part remedied by a default for most new measures to have a start date that commences after the implementing bill receives Royal Assent.

This negative impact on confidence is an issue not just for delays with implementation but also administrative guidance. For example, the new interest limitation rules were enacted in April 2024, however draft guidance was not released until October and December 2025, and the timing of the finalisation of these rulings has recently been deferred. In the meantime, these rules are in effect, with tax returns and financial statements being prepared without finalised ATO views as to how the rules apply. In addition, investment and financing decisions are having to be made without final guidance on how the rules are to be applied in practice.

While specific tax incentives encouraging investment, such as the R&D Tax Incentive (RDTI), are an important part of the corporate tax framework, there are shortcomings in this regime that must be addressed to support innovation and its commercialisation. The RDTI has been subject to frequent changes, has complex rules and at times confusing guidance from the agencies that administer it. Administration of the program has been challenging with overlap between regulators and drawn-out reviews. A lack of certainty in claims (which can be disallowed many years later) means many companies are unwilling to make use of it. As such, tax incentives such as the RDTI should be simplified and streamlined to reduce administrative burden and provide certainty for businesses. It is also important that these incentives are accessible. Our submission to the Strategic Examination of Research & Development outlines our recommendations in this regard.

3. Which parts of the corporate tax system do you find the hardest, or most time or cost-intensive to comply with? How could the compliance burden of the business/company tax system be reduced?

There are numerous aspects of the corporate tax system which are considered to be overly complex and/or time or cost intensive to comply with. We highlight some examples below (noting this is not an exhaustive list):

• Increasing number of integrity measures – there are many examples particularly in recent years of integrity measures introduced to target specific types of perceived 'mischief'. It is common for multiple rules with the same general purpose to apply simultaneously to the one transaction or event. For example, with the implementation of the Pillar Two global minimum tax rules in Australia, there should be a reassessment of the need for other integrity rules targeting 'base erosion and profit shifting' activities to subsist in the Australian law where the Pillar Two rules effectively deal with integrity concerns in relation to inappropriate tax outcomes such as non-inclusion of income or the inappropriate use of low-tax jurisdictions. This would not only reduce complexity but reduce any double tax (or effective double tax) outcomes that may arise. This approach is consistent with the OECD's recommendation that against the backdrop of the Two-Pillar Solution, countries should eliminate or modify existing rules and measures addressing essentially similar risks which have become duplicative. Several jurisdictions are already taking steps towards revaluating their domestic corporate tax measures. For example, in response to the introduction of the Pillar Two global minimum tax, the United Kingdom has repealed its 'Offshore Receipts in Intangible Property' regime, Italy has revised its Controlled Foreign Company (CFC) rules and Germany has lowered its trigger rate for the application of its CFC rules.
• There is considerable scope for simplification across the provisions within the corporate tax rules. In particular, the tax loss rules (including carry forward and unrealised loss rules) are cumbersome and act as an impediment to changing and evolving business activity. Other rules which are over-engineered relative to other jurisdictions include the taxation of financial arrangement rules, the foreign exchange gain and loss rules, small business rules and the controlled foreign company rules.
• Lack of alignment with international approaches – there are measures which unnecessarily go beyond comparable international rules and approaches. An example is the Australian public country-by-country reporting (CbCR) rules. Here there was an opportunity to align with existing international frameworks (being either OECD CbCR or European Union public CbCR) to streamline compliance, however the Australian rules were finalised with differences to the international rules, which gives rise to increased costs of compliance to produce the data in a different format just for Australia, for limited additional tax transparency benefit.
• The volume of corporate tax filings is significant and continues to grow. The tax return and associated schedules currently totals over 60 pages and there are numerous other returns and reports required to be filed on an annual basis. There are new filing requirements coming down the pipeline (e.g. new Short Form Local File requirements with significantly increased disclosures which apply from the 2025 income year). This comes at a considerable cost for business, both in terms of external advisor costs and time of inhouse finance and tax teams. Substantial additional tax information is also required to be submitted as part of Foreign Investment Review Board applications. This increases not only the cost of investment but can lead to delayed timeframes.

One measure to reduce complexity and improve certainty is an automatic debrief and review process which should be in place for significant tax law changes. This should have three elements:

• After the legislation is enacted there should be a debrief of the process of formulation and consultation by stakeholders, Treasury, the ATO and the Office of Parliamentary Counsel.
• After two years, there should be a short review with a view to ensuring there were no unintended consequences (including for outcomes that are negative to the revenue). If there are, these should be amended.

2. Reduce the impact of regulation on business dynamism

1. What areas of regulation do you see as enhancing business dynamism and resilience? What are the reasons for your answer?

   The participant did not respond to this question.

2. How has your regulatory burden changed over time?

   The participant did not respond to this question.

3. What regulations do you find time-consuming, overly complex or otherwise constraining business dynamism and resilience? What are the reasons for your answer?

   The participant did not respond to this question.

4. Can you share any specific examples of where you think a regulator has done a good or bad job of understanding and reducing regulatory burden on businesses and why?

Cover sheet: Supporting document #1

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Productivity Commission
4 National Circuit
Barton ACT 2600

6 June 2025

Productivity Inquiry: Creating a more dynamic and resilient economy

As a leading professional services firm, KPMG Australia (KPMG) is committed to meeting the requirements of all our stakeholders – not only the organisations we audit and advise, but also employees, governments, regulators – and the wider community.

We strive to contribute in a positive way to the debate that is shaping the Australian economy, and we welcome the opportunity to provide a submission in response to the Productivity Commission's *Creating a more dynamic and resilient economy* inquiry. In this response we have focused on the 'Support business investment through corporate tax reform' policy reform area.

Tax systems are traditionally assessed on the basis of three evaluation principles, however KPMG considers an additional five principles to be relevant. Any reform of Australia's corporate tax framework must have regard to these principles.

- **Efficiency** - efficiency refers to the ability of a tax system to raise the necessary revenue with minimal economic distortion. The efficiency of a tax is critical given it helps create the conditions for businesses to operate with increased productivity. It is well known that Australia has a high reliance on corporate taxes relative to other jurisdictions.[1]
- **Equity** – equity should be considered at six levels:
  - the impact of each tax - whether it is regressive or progressive;
  - the fairness of the tax and transfer system as a whole in similar terms;
  - the impact of taxation on wealth inequality;
  - the impact on different communities-urban, suburban, regional and rural;
  - inter-generational equity; and
  - gender equity.
- **Simplicity** – simplicity has many manifestations. The complexity of the federal system reduces the ease of doing business in Australia and thus the ability of Australia to attract foreign capital. Complexity adds to compliance costs and diminishes the level of trust.
- **Sustainability** – the federal budget must be sustainable in the long term. While this is a highly complex issue, it is clear that deficit budgets on current expenditure place a burden on the next generation.
- **Consistency** – changes to a tax system from year to year, and differences between jurisdictions and even countries, is an important evaluation consideration. This includes consistency with concepts in international tax rules. Constant change diminishes the general level of trust in the system.

[1] OECD 2024 revenue statistics (revenue-statistics-australia.pdf).

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- **Transparency** – there are two aspects of transparency that need evaluation. The first lies in what the government budget papers say and how transparent they are in conveying important information. This is important in setting the agenda for clarity of thinking about taxation. The second lies in the covertness of some forms of taxation. This can be relevant in the corporate tax environment, for example, where thresholds are set and not indexed or otherwise increased over time, bringing more taxpayers into the rules.
- **Stability** – there are two main elements to consider. Firstly, the extent to which the system - revenue and expenditure - contains automatic stabilisers. For example, a fall in company tax receipts and capital gains tax due to an economic downturn contain stabilising elements. Secondly, the extent to which revenue and expenditure settings are fixed with a view to the economic cycle.
- **Gender equity** – one of the greatest single sources of productivity gain in our society is higher female participation in the workforce. Over recent years, KPMG has proposed policy settings aimed at shifting the dial in a number of key areas, including parental equity, superannuation, retirement security, childcare, and parental leave, through its Gender Equity Series.

KPMG has responded directly to the consultation questions at the Appendix. We look forward to continuing to work with the Productivity Commission on its productivity inquiries. If you would like to discuss this letter further, please do not hesitate to contact us.

Yours sincerely

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Appendix: Response to consultation questions

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Australia, there should be a reassessment of the need for other integrity rules targeting 'base erosion and profit shifting' activities to subsist in the Australian law where the Pillar Two rules effectively deal with integrity concerns in relation to inappropriate tax outcomes such as non-inclusion of income or the inappropriate use of low-tax jurisdictions. This would not only reduce complexity but reduce any double tax (or effective double tax) outcomes that may arise. This approach is consistent with the OECD's recommendation[2] that against the backdrop of the Two-Pillar Solution, countries should eliminate or modify existing rules and measures addressing essentially similar risks which have become duplicative. Several jurisdictions are already taking steps towards revaluating their domestic corporate tax measures. For example, in response to the introduction of the Pillar Two global minimum tax, the United Kingdom has repealed its 'Offshore Receipts in Intangible Property' regime, Italy has revised its Controlled Foreign Company (CFC) rules and Germany has lowered its trigger rate for the application of its CFC rules.[3]

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- After two years, there should be a short review with a view to ensuring there were no unintended consequences (including for outcomes that are negative to the revenue). If there are, these should be amended.

[2] Tax Co-operation for the 21st Century | OECD.
[3] Annex-III.-OECD-G7-2024-Progress-Report-Tax-Co-operation-EN.pdf

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- After five years, there should be a review of the legislation to ensure the policy intent of the legislation is changing behaviour as envisaged.

There should also be regular reviews of the tax compliance framework to ensure administration such as tax return disclosures, reports, notices, elections, etc. strike the right balance between providing the ATO with sufficient information and ensuring costs of compliance are kept to a minimum (including an assessment of the frequency of use by the ATO and purpose of obtaining the information from all taxpayers, compared to requesting such information from a smaller pool of higher risk taxpayers as part of a Request for Information letter). This could be undertaken by a body such as the Inspector General of Taxation and Taxation Ombudsman.