

Simon Winckler  
Manager  
Corporate and International Tax Division  
The Treasury  
Langton Crescent  
PARKES ACT 2600

Dear Simon,

It is in respect of your draft legislation, titled, ***Treasury Laws Amendment (Enterprise Tax Plan Base Rate Entities) Bill 2017*** that this email content is directed.

Duncan McPhail & Co are tax agents and an SME accounting firm of almost 70 years standing.

I have 37 years experience in tax, with almost all of that time with Duncan McPhail & Co.

The comments below in respect to your draft legislation are specifically directed at the practical aspects that we as tax agents face in attempting to advise on and implement such legislation to our wide and diverse small, medium enterprise ('SME') client base.

In particular I draw your attention to proposed s.23AB (f), which is reproduced below:

**(f) amounts included in assessable income under Division 5 or 6 of Part III of the Assessment Act, to the extent that they are attributable to base rate entity passive income under a preceding paragraph of this definition.**

It would appear from this subsection there is deliberate intent to permit 'flow through' active business income from both, discretionary trusts to corporate beneficiaries (Division 6 of Part III of the Assessment Act) and from partnerships to corporate partners (Division 5 of Part III of the Assessment Act).

The consequence of this being, corporate beneficiaries or corporate partners would be able to access the lower 27.5% corporate tax rate. And the corollary being, dividends paid from such corporates can only be franked to 27.5%.

Furthermore, it is noted that Schedule 1, Part 1 Amendments are to have effect from 1 July, 2016. In other words, the amendments aforementioned.

Almost all of us tax agents, accountants and advisers to the SME market were not expecting this at all. In particular with an arbitrary ***more than 20% active business income requirement***. Three months after 2017 Financial Year end, we have prepared and lodged many 2017 Tax Returns and Financial Accounts for such corporate beneficiaries and corporate partners on the assumption of a 30% company tax rate. I would estimate this number across Australia to be in the tens of thousands.

Furthermore, many of these corporate beneficiaries and corporate partners have paid dividends in the 2017 Financial Year and issued dividend statements, franking such dividends

to 30%. Again, this number across Australia would be in the tens of thousands. The 'knock on' consequence being that such shareholder recipients have declared such dividends in their 2017 tax returns and claimed the 30% imputation credit in their 2017 tax returns already lodged and assessments received. This number, across Australia, may exceed tens of thousands.

Your proposed draft legislation would lead to amendments to tens of thousands of 2017 tax returns and dividend statements.

This is tax inefficiency in the highest order!

The solution is a simple one, the commencement date of Part 1 should be 1 July 2017.

Sent from my iPad

Regards

Shane Wagner

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