

Email Transmission



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General Manager
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Via Email: SBTR@treasury.gov.au

Dear Sir/Madam

Re: Improving the taxation of trust income

In relation to the discussion paper on "Improving the taxation of trust income," the South Australian Farmers Federation (SAFF) position is that there need to be changes so that there will again be the arrangements with trusts that existed before the High Court decision on the Bamford Case. This needs to include a guarantee that farmers operating as family trusts will not be trapped by red tape that penalises them at tax time, and the beneficiaries of trusts being assured that they will be able to continue using tax averaging and Farm Management Deposits.

It would appear from the detail in the discussion paper that the aim is to make changes so that the status quo can be reinstated.

The Government has recognised that there is a problem with the Bamford decision and the withdrawal of the TD's and are hoping to redress this, hence the discussion paper. The aim appears to be to find a way to allow the streaming of capital gains and dividends to particular beneficiaries.

If accounting income is streamed to particular beneficiaries, it is important that taxable income is equated with it, so that a beneficiary is not disadvantaged. This would resolve the following problem:

Where the capital gains are streamed, and given that streaming will be allowed, if there is the scenario whereby a Trust has a capital gain of \$100,000 and business income of \$100,00 and where Mum and Dad get the capital gain of say \$100,000

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(that in their hands is not taxable because of CGT exemptions, leaving \$100,000 taxable income) and \$25,000 of business income each, and Son and Daughter-in-law get business income of \$25,000, that is 25% of taxable income each, the tax situation needs to be the same. This appears to be the proportionate approach as outlined in the discussion paper.

What we do not want see is a tax assessment whereby each beneficiary is taxed on their proportion of accounting income. This would mean Mum and Dad would be taxed on \$37,500 ($\$75,000/\$200,000 \times \$100,000$) each and the junior partners on \$12,500 ($\$25,000/\$200,000 \times \$100,000$) each. The alignment of taxable and accounting income needs to be clear.

It is the same with dividends – the legislation must be clear in allowing the franking credit to be aligned with the beneficiary receiving the dividend. Otherwise the one beneficiary could be taxed on income that they have not received. It would appear that the discussion paper seeks to hopefully resolve this issue.

The SAFF appreciates the Australian Government's action following the High Court decision, and looks forward to this issue being quickly resolved so the uncertainty facing farming families with trust structures can be removed.

Yours sincerely



Carol Vincent
CHIEF EXECUTIVE