Australian Government

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# TAX FORUM 4-5 October 2011

## STATEMENT OF REFORM PRIORITIES

### PARTICIPANT NAME AND POSITION

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### ORGANISATION

Ruddicks Chartered Accountants, a small to medium size firm of Chartered Accountants and Tax Agents based in Launceston, Tasmania.

### STATEMENT OF PRIORITIES

What are your priority reform directions for the tax and transfer system?

1. The Australian taxation system is far too complicated. Not only do taxpayers find it too difficult to understand, but many tax agents and other tax professionals struggle to comprehend and advise on many parts of it. A significant reason for this is that the legislation itself is drafted in a convoluted and complex way. Most divisions of the tax law have their own anti-avoidance provisions. In a part of the law offering a simple tax concession, it is not unusual for 20% of the relevant law to enact the concession, with the remaining 80% being focussed on complicated anti-avoidance provisions. The "sledgehammer to crack a nut" analogy applies all too often. This tends to compromise the intent of the legislation and can make it too difficult to determine whether a taxpayer is eligible for the concession. The government should adopt the Australian Future Tax System (AFTS) Recommendation 112 and commit to adopting a principles-based approach to tax law design. This would acknowledge that the vast majority of taxpayers recognise and accept their tax obligations and they should not be burdened by overly complex legislation aimed at the few. Anti-avoidance provisions should be limited, in most cases, to general provisions aimed at ensuring the intent of the law is achieved.

2. Much discussion has occurred around future company tax rate reductions to assist small business. It must be appreciated, however, that many hundreds of thousands of businesses are not conducted through companies. Such businesses are taxed based on individual marginal rates. It is important that this is not forgotten during the debate, and consideration should be given to reducing individual marginal tax rates to assist small businesses.

3. Much of what is considered tax avoidance by the ATO relates to attempts by taxpayers to access the lower company tax rates rather than higher individual tax rates. Rather than *reducing* company tax rates, consideration should be given to actually minimising the difference between the company tax rate and individual tax rates. An *increase* to the company tax rate of two to four per cent accompanied a reduction of the current 37% and 45% individual marginal rates would assist many small businesses, and at the same time almost eliminate most of the negative energy spent on tax planning emanating from the significant difference between company and individual tax rates at the present time.

4. Small businesses should be assisted by countering bracket-creep and adopting the AFTS Recommendation 30 to increase the small business entity turnover threshold from $2 million to $5 million.
5. Similarly, the $6 million net asset value test should be increased to around $10 million. It should also be noted that the "drop dead" nature of this threshold creates enormous complexity for taxpayers and their advisers, and horrendous consequences where taxpayers are on the borderline and later found to be in excess of the limit, even if only by $1. It would be more logical to open up the eligibility for the small business capital gains tax concessions to individuals with greater net assets, but place reasonable limitations on the lifetime benefit of such concessions available to each individual (rather than the unlimited 15 year exemption as it currently stands).
6. Small businesses should be able to immediately deduct assets costing up to $10,000, as recommended by AFTS Recommendation 29.
7. Fringe Benefits Tax should be reviewed to simplify or repeal the many complex provisions which tax relatively low value benefits (AFTS Recommendation 9).
8. The government should consider why it allows some taxpayers to split their income with their spouse and not others. In particular, the ATO accepts that tradespeople (such as plumbers and builders) earning income from personal exertion can form family partnerships with their spouses and significantly reduce their family income tax liability. This practice is common place. In most cases, neither employees nor professionals earning personal exertion income can do the same. The government should consider the equity of this distinction.
9. Careful attention should be given to the effective marginal tax rates experienced by new parents wanting to return to the work force. Anecdotal evidence suggests that many new parents, especially mothers, are reluctant to return to the workforce due to a combination of the amount of income tax they will pay and Centrelink benefits they will lose.
10. State taxes should be harmonised as much as possible, in order to provide equity and simplification to businesses operating in multiple states.
11. State duty on property conveyances should be reduced or eliminated. Property duty provides a major disincentive for individuals to move residences, and therefore serves as a handbrake on human capital being available in the right location at the right time. Refer AFTS Recommendation 51.
12. Where state duties continue to apply, there should be a nationally harmonised system of exemptions available for genuine business restructures.
13. State payroll taxes should be reduced or eliminated. They are inefficient and serve as a disincentive to increase or maintain employment levels. Payroll taxes are considered by businesses to be a tax on employment. Refer AFTS Recommendation 57.
14. Whilst consideration should be given to the long term reform of the way alcohol is taxed, nothing should be done in the short term that would adversely affect the wine industry in the middle of the current wine glut.

How are your proposals financed over the short and longer term?

1. The government should crack down on the cash economy, particularly in the home building, renovating and maintenance industries. The introduction of the GST and the Australian Business Number systems was meant to clean up the cash economy. Whilst it has done this to some extent with business-to-business transactions, the introduction of the GST has only increased the incentive to operate outside of the tax system for those servicing non-business customers. Receiving cash allows these businesses to avoid both income tax and GST, as well as under-reporting their income and receiving Centrelink benefits in some cases. The entire nation is aware that, with many tradesmen, there is a regular price, and a lower price for "cash". The government should better resource the ATO to undertake greater physical surveillance of those operating in this industry, and any other industries where there is intelligence to suggest under reporting of cash income, to ensure that all taxpayers comply with their taxation obligations.
2. There is little justification for the income from the assets of superannuation funds supporting a pension to be exempt from tax. Not only do members over the age of 60 receiving a superannuation pension receive those pensions tax free, but the income of the superannuation funds are also tax free. Those over age 55 have benefitted from extremely generous contributions limits which have since been tightened. No subsequent generation will ever be able to build up superannuation wealth to the level that many baby boomers who benefitted from the old contribution limits currently enjoy. There is a growing perception that those currently in their thirties and forties will never benefit from tax-free superannuation; that it is so unreasonably generous that future governments will be forced to find additional revenue and re-introduce tax on superannuation pensions. Surely, at the very least, account balances over a reasonable amount should be subject to tax on the income derived by the superannuation fund whilst in "pension mode". The AFTS Recommendation 19 should be considered. Having a tax exemption "turn on" the moment the superannuation fund commences paying a pension creates distortions and room for tax avoidance. It would make more sense for the same (concessional) rate of tax to apply both in the accumulation stage and the pension stage. A 10% rate might be appropriate.
3. Australia has one of the lowest rates of GST in the world. Even a small increase in the rate could provide an opportunity to eliminate and/or rationalise many of the inefficient taxes identified by AFTS. Consideration should also be given to broadening the base of the GST, eliminating exemptions and thereby simplifying it. Consideration could be given to compensating low income earners, if deemed appropriate.

## LIST OF ATTACHMENTS

None.