Co-operative Response to "A Platform for Consultation"

Cooperatives – Australians Extending their own Business

Second Submission to the Review of Business Taxation

from the Cooperative Council of Australia Inc

Co-operative Response to “A Platform for Consultation”

The Council has participated in a number of forums associated with co-operative issues organised by the Secretariat to the Review.

The Council has outlined the operations of Co-operatives and the basis under which they are currently taxed and reiterates its previous opinion that the retention of the principles and practices of Division 9 of the current taxation legislation should not only be retained but should be enhanced.

The significant differences in the approaches taken relate to the relationship between the co-operative as an extension of the member’s business and that of a remote investor. Co-operatives largely determine prices of commodities whether buying or selling on the basis of the volume of activity done with the co-operative. This is the nature of participation in a co-operative in order to enhance the member’s welfare or business profitability rather than generate a payment based on a return on risk capital.

TAXING DISTRIBUTIONS

Of real concern to co-operatives is the issue of taxing distribution to members that are not based on investment in shares for a rate of return on capital employed. These concerns include the concept of taxing discounts on products or above market payments for produce as a shareholder dividend or fringe benefit. In most instances the co-operative would not exist if it was not for the activity generated by its loyal members. In many areas the regional store or industry process would not exist to the detriment of the economy. Mutuality enables the co-op to economically buy and sell commodities for the member’s operation. In many circumstances what is a benefit one year, could follow a long period of below market benefits.

We concur that distributions based only on a dividend on share face value (i.e. open policy of share investment in the co-operative) in this instance the payment could be treated as a franked dividend under the proposed tax credit arrangements.

However, many co-operative based organisations have in their rules that shares are held in proportion to throughput or activity. In these instances the holding of shares is purely to finance the activity and any subsequent distribution is often the mechanism for payment of the distribution for purchase of products. It is essential that these distributions be able to be treated as deductions as a payment to members without tax and as a consequence are assessable in the member's hands.

CASH FLOW IMPACT

The impact upon cash flow of taxing distributions where the member's business and taxable income is far less than the entity rate of taxation would be disastrous to most members' activities. It also does not take account of the fact that they will pay the appropriate tax along with all other Australians.

It is essential that co-operatives be able to accrue transactions based on the year of conducting that business activity as at present. This is particularly so as many co-operatives trade on a seasonal or product pooling basis and would otherwise severely distort the matching of revenue with their respective payments due.

SERVICE

Services in kind provided to members of a co-operative are often to enhance the quality or quantity of the activity done with the co-operative and / or would be otherwise deductible in the normal course of business for taxation purposes. Administrative costs would be unnecessarily increased when other provisions could address tax avoidance issues.

REGIONAL DEVELOPMENT AND SECTION 120(1)(c)

The benefit to regional development, employment and business activity of Section 120(1)(c) has been discussed including the fact that the government recovers from the concession a considerable increase in the taxable income of many of the participants. The second discussion paper on Review of Business Taxation, "A Platform for Consultation", notes that "the continuation of the deduction is a separate issue from extending a new entity tax system". We agree with this part of the paper's observations and will continue to strongly oppose any approach to limit this section's application.

CAPITAL GAINS TAX ON RESTRUCTURE

Co-operatives for many years have sought the ability to restructure without the imposition of Capital Gains Tax where the beneficial interest in the subsequent structure has not changed in entitlement other than the change in the script that is issued as evidence of their participation. It appears from the paper that consideration is to be given to exempting changes of such nature from Capital Gains Tax. We support this case as the current tax situation can lead to the ludicrous position where adjacent community owned co-operatives that may merge as a common community owned co-operative for economies of scale will not proceed. Further, retiring members whose business entities are sold cannot retain an interest in the co-op without changing the CGT status following a lifelong membership. The individual will be taxed even though they retain the same beneficial value in the same underlying group of assets. Merged entities could pay of increased tax on profits derived from more competitive structures.

DEPRECIATION

Many start up small organisations, both co-operative based or members of co-operatives, find it very difficult to establish good cash flow management when paying for assets and receiving a depreciation deduction of only part thereof. They are taxed on the subsequent notional profit in early years when the cash has already been spent. It would appear sensible to lift the $300 limit for write-off substantially. The overall deduction would be the same and these businesses would not have a tax impost on cash flow at a time they can least afford it.

A number of other observations have been made in discussions or in the previous submission. We would welcome further contact in order to ensure that the co-operative viewpoint is understood in the correct context.

The Co-operative Council will strongly support the Co-operative and Co-operative Company status for taxation purposes.