

25 February 2013

Dr Richard Grant
Acting Secretary
Parliamentary Joint Committee on Corporations and Financial Services
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Dr Grant

Re: Inquiry into the Tax and Superannuation Laws Amendment (2013 Measures No.1) Bill 2013

Thank you for your letter of 18 February inviting Virgin Australia to provide our views on the measures contained within *Tax and Superannuation Laws Amendment (2013 Measures No.1) Bill 2013* ("the Bill").

Virgin Australia has directly engaged with and provided submissions to Treasury in respect of the reforms of the fringe benefits tax valuation rules for airline transport benefits, and to the Business Tax Working Group with regard to the introduction of tax loss carry-back for companies contained in this Bill. A summary of our position in relation to these aspects is set out below.

Airline Transport Benefits

Virgin Australia is supportive of the measures in relation to the valuation of airline transport benefits in the Bill, which modernise and simplify the current legislation. In brief, Virgin Australia expects a reduction to the current administrative burden associated with calculating taxable values of our existing staff travel arrangements, which represent an important benefit to our workforce. In our view, the valuation of these benefits will remain consistent with the previous law, but compliance has been simplified.

We would like to highlight the constructive engagement with Treasury in relation on this legislative change, including the time taken to understand Virgin Australia's business needs.

Tax Loss Carry-Back

Given the high level of variability of airline profits, Virgin Australia is extremely supportive of the concept of a loss carry-back regime. However, as the Bill will apply a quantitative cap which is largely effective for only small- to-medium sized enterprises, Virgin Australia will not see any benefit from the loss carry-back rules.



In Virgin Australia's view, the advantages of these measures, such as greater certainty for profitable companies to be able to utilise a loss from an investment and the associated cash flow benefits, should be available to all corporate taxpayers, including companies with large capital requirements such as airlines. The removal of the quantitative cap would extend the benefits of the measures to large businesses, driving greater investment and innovation in the Australian economy. Importantly, it would not impact on Government tax revenue in the long-term, as tax losses which are carried back will not be available to be carried forward.

Further detail to provide additional context and support for our position regarding tax loss carry-back is provided at Appendix A.

Please do not hesitate to contact me on (07) 3087 0659 if you would like any further information in relation to this submission.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Rohan Porter".

Rohan Porter
Manager, Tax
Virgin Australia

TAX LOSS CARRY-BACK

Airline profits are highly seasonal and constantly subject to external shocks, as evidenced with recent events including flooding, cyclones, volcanic ash, earthquakes, bird flu, SARS, oil price spikes, industrial action, etc. As tax payable is assessed by arbitrarily breaking these profits into defined yearly periods, a period of high taxable income can be followed by tax losses.

Prior to the introduction of the Bill, no relief was given for taxes previously paid when a taxpayer falls into a loss period. A tax loss carry-back regime could effectively address this volatility in annual performance of the airline industry and provide assistance to the industry during downturns.

The proposed time constraints of transitioning the introduction of the regime from a one year carry-back to a two year carry-back is considered an appropriate time frame. In our opinion, permitting the carry back of tax losses for three years would assist considerably in sustaining a long-term view of investment in Australian tourism. This would allow for cash flow relief during periods of intense capital expenditure with the concurrent deductions for the decline in value of those assets. Further, the two year period will provide immediate relief and potentially encourages the earlier investment in more efficient assets. Unfortunately, these benefits are diluted given the quantitative cap proposed by the Bill.

Given the loss carry back is to be restricted in terms of time and franking account balance, Virgin Australia does not consider it appropriate to place a further \$300,000 yearly quantitative cap on the loss carry-back. By using the franking credit regime as a capping mechanism, this is an effective and entirely appropriate proxy to ensure tax credits of previous years have not yet been distributed to shareholders.

Recommendation 31 of the *2010 Australia's Future Tax System Review* did not suggest a quantitative cap should be placed on losses. We question why this measure and its benefits are limited to small and medium business and disagree with statements that these businesses should be targeted as they "are not able to take advantage of the consolidation regime's loss utilisation rules (current year losses incurred by one member of the group can be offset against income earned by other members of the same group)". There are no restrictions on applying the consolidation rules for small and medium business that have more than one entity in their corporate structure.

Accordingly, we believe that the consolidation regime should not be considered as a mitigating factor in limiting the benefits of the loss carry-back measures to small and medium business.