



Australian Government

The Treasury

12 November, 2012

Ms Deborah O'Neill MP
Chair
Parliamentary Joint Committee on Corporations and Financial Services
Parliament House
CANBERRA ACT 2600

RESPONSE TO SUBMISSION FROM MGI AUSTRALASIA LTD

The MGI Australasia Ltd submission (Submission No 9) recommends that an exemption be inserted into Subdivision 83A-C of ITAA97 to defer the taxing point on the issue of discounted shares to key employees of family businesses until the shares are sold, and extend the maximum shareholding for which deferral applies to 49 per cent.

The Government provides tax concessions to employee share schemes (ESSs) because it considers that employees having a stake in the company that they work for provides an alignment between the interests of employees and shareholders that has productivity benefits for the economy more broadly.

Under the current provisions for the taxation of employee share schemes (announced in the 2009-10 Budget) discounts on shares or rights are taxed in the income year the shares or rights were acquired, unless there is a real risk of forfeiture of those shares or rights. Taxpayers with adjusted taxable income of less than \$180,000 receive a tax exemption of up to \$1,000 on the discount.

Where there is a real risk of forfeiture of the shares or rights acquired, the discount is taxed at a later time. This later time is the earliest of when the risk of forfeiture disappears, the employee ceases the employment for which they acquired the shares or rights, seven years after the employee acquired the shares or rights, or when the shares or rights are disposed of. The \$1,000 tax exemption on discounts does not apply to shares or rights on which taxation is deferred.

The 2009-10 Budget changes to the taxation of employee share schemes were designed to better target eligibility for the concessions to employees to improve fairness and integrity in the tax system. The changes improve horizontal equity in the tax system by treating different forms of remuneration more equally.

The interests of senior executives and directors of companies, including those working for family businesses, should already be strongly aligned with the interests of shareholders and therefore there is no productivity benefit that would arise by extending additional tax concessions to shares issued at a discount to such persons. Such employees and directors can, however, access the current concessions provided to ESSs where their shareholding is no more than 5 per cent of the company and the ESS scheme is non-discriminatory (offered to at least 75 per cent of the permanent employees with at least 3 years of service). Allowing executives to defer the taxation point would provide a concession to a select group that was not extended to the majority of employees.

The submission recommending deferral of taxation for shares issued in a family business notes that illiquidity is a problem for family business that warrants deferral of the taxing point. This is an

issue that is not unique to family businesses and is faced by many other companies (for example small unlisted companies).

The Government has stated that it considers the current concessions strike the right balance between aligning the interests of employees and shareholders and ensuring that taxpayers with the same level of total remuneration are treated equally under the income tax system.

Yours sincerely

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