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Hon Peter Reith
Minister for Employment and
Workplace Relations
Parliament House
CANBERRA ACT 2600

Dear Minister

Employee Share-ownership Plans

I refer to the article in today's Australian Financial Review about the current inquiry you have established to examine the scope for widening the role of employees share-ownership plans in Australia. I realise that the time for accepting submissions to the inquiry has passed but the newspaper article highlights what I believe is at the heart of the present problems experienced by those sections of industry that do establish plans for their employees.

The article refers to Tax Office and Treasury perceptions that consultants and sections of industry constantly use share-ownership plans as tax avoidance schemes. It quotes the Tax Office as saying that promoters develop products to minimise and avoid tax. The Tax Office and Treasury officials who deal with these issues seem to collect data on schemes pushed by promoters. So far as I am aware officials never appear in the business centres of the capital cities to gather data about plans established by employers for their employees. I mean we never hear about the genuine, widely distributed workplace plans that offer optionsand shares in their businesses to the full range of employees. Do Treasury and Tax Office officials ever leave Canberra to seek interviews with businesses; to look at the workplace plans that offer workers shares at a small discount usually paid for out of dividends or by deductions from wages over three of five years? Do officials ever look at plans that are not promoted by consultants, where there are no efforts made to be smart about taxation?

There are dozens of plans established in industry where the most vexing and negative problems we have are communicating the necessity to pay taxes. Businesses have plans for all the right reasons, they register them with ASIC, and they genuinely try to promote egalitarian shareownership in the workplace but at the end of the day, the effort to be positive is overcome by the tax issue.

My Company has promoted shareownership in Australia almost every year since 1983. It promotes plans in many other Western countries such as the UK, the US and Canada. These schemes are about spreading shareownership as far as possible in the belief that ownership spreads the business' growth and profits as widely as possible.

In Australia our plans have changed over the past 16 years mostly to adapt to the ever changing tax laws. Not to avoid but to limit the impact of tax on the plans and the people who invest their savings.

In Cadbury Schweppes' case (a copy of the current Plan document is attached) an option plan is offered to all eligible employees every year. It is an option plan because some years ago the States began to impose payroll taxes on the 'interest' that the Company did not charge employees for the loans the Company did not give its employees to buy the Company's shares. In other words, employees were allotted shares that they could not sell until they paid for them over three years by deduction from their pays. Title was in the employees' names and they received unfranked dividends that are taxable. Loans were not granted to employees but the States saw that the lack of an interest charge was an alleged fringe benefit on which they could levy payroll tax. The Company changed the Plan to an options savings scheme and the next thing we know Division 13A of the Tax Act was introduced.

This tax regime taxes employees in the year they are granted options before they have any title to shares and before they have any funds to pay the tax. The concessions offered are hardly worthwhile as the Company's shares are valued at about $A10 each and the way the Division artificially values options, places a full tax impost on any employee who invests in more than about 350 shares in a year. The present tax law is a very negative barrier to extended shareownership. No one who does invest avoids tax. They pay taxes:

- on the interest they earn while they are saving funds to buy the shares,
- in the year they commit their savings or when they exercise their options,
- when they are paid dividends,
- when they sell their shares.

The Company has to seek the cooperation of a participating employee to apply for a special tax Private Ruling to ensure that the option plan meets the specific requirements of Division 13A. This Ruling is always difficult to obtain and is an expensive exercise for the Company. Broadcasting the Ruling to other participating employees always raises negative sentiment when the plan is meant to increase employees' regard for the Company's efforts.

If they lapse their shares during the three year period employees have a complex bureaucratic system to go through to recover the tax they pay when they are granted options.

Whilst employees are saving to purchase shares they are boosting the country's savings. In my Company's case this savings pool exceeds SA2.2million.

Returning to my theme, I urge you to impress on your Cabinet colleagues the need to force their departmental officers to leave Canberra and find out what the businesses that employ most Australians are grappling with in regard to taxes in this savings related area. We are not seeking tax-free status, just a genuine understanding that at every stage of the savings 'chain' there is another tax imposed and these impositions are a continuing source of negative feedback for the Company's shareownership aspirations.

Before mailing this letter I note the Parliamentary report released today that points to the slump in household savings which is now at 0.4 per cent of national savings. Some attention to the complexity of tax impositions would help to alleviate this situation.

I look forward to a positive outcome from your inquiry.

Yours sincerely

Trevor Sinclair
SHARE PLAN MANAGER

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