

# **Inquiry into Small Business Employment**

## **Introduction**

The National Institute of Accountants (NIA) is a professional accounting body with over 12,000 members. The majority of those members either work for, advise to or own a small business, therefore the NIA is well positioned to comment on small business issues, particularly regulation impacting upon small business. Accountants are the group of people most involved in assisting small business owners with compliance with government regulation.

The terms of reference of this inquiry is to discuss the impact of government regulation on small business employment. Particularly whether government regulation impacts upon the capacity of small business to employ. The NIA welcomes the opportunity to provide comment on what is a very important question for the whole of the economy, particularly for Tasmania.

For the Australian economy as a whole (based on the Australian Bureau of Statistics "Small Business in Australia 1997 small business equate to over 42% of all private sector employment (62% in Tasmania), 30% of Gross Domestic Product (44% of Gross State Product in Tasmania), 30% of total industry production and 19% of total industry profits. These statistics provide firm evidence of the need for all levels of government to assist in creating an environment that encourages small business not a regulatory regime that creates unnecessary impediments to small business. As can be seen from the above statistics, an environment that does not overburden small business with regulation, could have significant positive impact on the economy as a whole.

The above statements are made presuming that regulation has a negative or neutral impact on small business, which is generally the case. However, regulation does in itself create employment and wealth for some, particularly accountants, bookkeepers and lawyers, however the question is, what is the opportunity cost of such regulation. Does the benefit created by regulation for government and for people acting as agents or intermediaries outweigh the disadvantages?

Much of the current compliance work that has an impact on small business was put in place to assist with good business practices, such as the Business Activity Statement (BAS). This paternalistic approach to regulation belies the fact that government cannot regulate good business practice. Good business practice is something a business person will do or not do based on their own decision making. The BAS, which is a very good management tool for smaller businesses is anyhow seen as an unnecessary intrusion into the business activities of many small businesses no matter how beneficial the information. Thus, such paternalistic approaches, no matter how well meaning or correct, create resentment amongst many small businesses. Many owners of such businesses want to be able to maximise their time in their business and see any form of intrusion, no matter even if such instructions is necessary for good business practice, to be onerous and of little value.

Between the period 1983-84 to 1998-99, small businesses have contributed significantly to employment growth with a nationwide average annual increase of just over 3% for that period. This rate of employment growth broadly tracks the average annual rate of change in small businesses numbers for the same period, which is approximately 3.75%. It can be argued that during this same period (a period marked by de-regulation) that regulation increased significantly. Did this mix of

increased regulation and de-regulation have an impact on the increase in small business employment? The NIA does not know the answer to this question and believes it may be helpful to the Committee's deliberation if they could seek research on this question.

1. *The effect of government regulation on employment in small business, specifically including areas of workplace relations, taxation, superannuation, occupational health and safety, local government planning and tenancy laws.*

It is difficult to quantify the actual impact of government regulation on small business employment as every small business operator will have their own experience on this issue. However, there are a number of general issues that do impact upon small business and therefore they impact upon employment, for example:

- Inconsistencies between Commonwealth, State and local laws. For example, the Victorian Government recently banned smoking in restaurants and cafes, however some local governments at the same time prevented restaurant and café owners from introducing or extending outdoor seating. How else can a restaurant owner cater to their smoking customers other than to have outdoor seating; and
- Payroll tax, which varies from state to state, discourages investment and expansion of small to medium sized enterprises for fear that any expansion or investment requiring them to increase their labour force may put them over the payroll tax threshold, making them liable for payroll tax (and therefore having to comply with a tax system which has multiple thresholds and exemptions).

There is no qualitative evidence that one single government regulation or a combination of government regulations actually determine small business employment issues, however it is the experience of NIA members that, such regulations do impact upon small business employment decisions, however economic considerations are the most important consideration in making an employment decision. If the business is experiencing an increase in activity, they are more likely to employ someone and visa versa, if business activity is declining, however concerns about issues such as payroll tax and workcover premiums do impact upon such decisions. Members of the NIA have stated that their clients have decided not to employ additional staff because of the extra complexities (particularly when it is employing their first staff member). Alternatively, various employment incentives that exist have encouraged them to seek employees when there is no real economic justification, and to later rue such a decision because of the conditions and compliance costs associated with such incentives.

The aim of government regulations at all levels should be to minimise the interference with the economic decision making of small business. In the majority of cases, this is, so, however, regulations quite often become a consideration in employment issues. How then can the government (at all levels) ensure that regulations do not unnecessarily impinge upon the economic decision making process of small business?

The answer to that above question is difficult, as it will be a question of balance for each circumstance, the balance between the government's need/desire to regulate and the impact it has on small business. Some initiatives already in place should be used to monitor whether such a balance is met.

For example, all bills introduced into Parliament require a Regulatory Impact Statement (RIS). This is a welcomed initiative, however there appears to be very little review of whether or not the RIS was accurate or not after the bills become law. The NIA recommends that an independent formal review mechanism of an RIS be put in place to review the accuracy of the RIS after the legislation it accompanies becomes law. Such an independent formal review should have the authority to recommend changes to legislation to ensure that the actual impact of the legislation does in fact meet the intention of Parliament as expressed in the RIS.

The independent review process could be performed by a Parliamentary Joint Committee with responsibility for regulatory impact, or given the amount of legislation, an independent office of the Parliament, similar to the Ombudsman or the Auditor-General. The focus of any independent review process should be the impact of regulation on small business. In addition to the power to test legislation's actual compliance with the RIS, such independent reviews should have the power to make public suggestions as to how the Government (at all levels) could ease the regulatory burden on small business.

#### **RECOMMENDATION:**

**The NIA recommends that this Committee support the establishment of an independent office of the Parliament for the review of the actual compliance impact of regulations. Such an office should have the following authority: to review:**

- **The actual impact of legislation against the RIS and recommend changes to the legislation and/or the administration of the legislation to ensure its compliance with the RIS; and**
- **Review the regulatory impact of any legislation (at any level of Government) and make public suggestions as to how the impact of legislation could be reduced, particularly for small business.**

2. *The special needs and circumstances of small business, and the key factors that have an effect on the capacity of small business to employ more people.*

Small businesses, although a difficult term to define, are unique as they lack economies of scale, meaning that small business operators have to tackle a whole range of tasks, (which they are not necessarily skilled to do) in order to ensure their on-going viability. Small business operators must undertake tasks that larger businesses would split between employees, to ensure costs remain as low as possible. Governments must assist those operators by having as few additional tasks as possible. In addition, governments must do all they can to ensure the overheads to running a business are minimal.

Governments must therefore always remain aware that regulations do have an impact on small business operators especially where the operators themselves undertake the administrative/compliance tasks, when drafting regulatory requirements.

Also the fear of having to comply with regulations has an impact on decision making and this includes employing staff. Governments should consider conducting awareness and education campaigns that are designed to overcome the fears of small business in employing new staff.

Again, governments should do all they can to ensure economic considerations remain the foremost reason for small business to employ staff. An extension of this is the governments must do all it can to ensure a healthy and prosperous economy, as this will create the environment for employment.

3. *The extent to which the complexity and duplication of regulation by Commonwealth, State and Territory Government inhibits growth or performance in the small business sector.*

Many small businesses, particularly accountants who deal with hundreds of small business clients, find the level of duplication between legislation at all levels of government and even in the same legislation difficult to comply with. In particular the definition of a small business varies considerably between state and federal legislation and even within the same legislation. This therefore requires small business advisers, who are invariably accountants to remain fully aware of the many different definitions of a small business to ensure compliance. For example, under the *Tax Assessment Act 1997* the business may be a small business for the purposes of qualifying for Capital Gains Tax relief but not a small business for the simplified tax system.

#### **RECOMMENDATION:**

**A common definition of "small business" in both state and federal legislation be adopted.**

#### **Conclusion**

In this submission, the NIA have tackled general reasons behind what motivates small business decisions on employment. Although, the impact of regulation varies from small business, to small business, it is reasonably to say that employment decisions are made because of economic considerations, eg can the business justify the expense of an employee, however, for many, the impact of regulations do play a significant role in decision making. The NIA submits that all levels of government must do all they can to ensure that regulations do not impact upon the economic decision making of small business.