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THE AUSTRALIAN WORKERS' UNION

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FSU AUSTRALIA www.fsunion.org.au

Manager
Philanthropy and Exemptions Unit
Personal and Retirement Income Division
The Treasury
Langton Crescent
PARKES ACT 2600
ESSreforms@treasury.gov.au

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REFORM OF THE TAXATION OF EMPLOYEE SHARE SCHEMES

The Finance Sector Union of Australia, the Australian Services Union, the Australian Workers' Union and the Shop, Distributive & Allied Employees Association welcome the opportunity to comment on the important issue of employee share ownership schemes. Collectively we represent over 500,000 members across Australia.

The most recent ABS figures[1] suggest that around 481,000 employees participated in share schemes in 2004 – we submit that our members would make up a substantial proportion of that number.

We strongly support the ongoing viability of employee share schemes as they allow employee's to benefit directly when their employers business does well and help to align their interests with them. We appreciate that the Government has responded to our concerns regarding the Budget announcement and believe that the measures proposed in the consultation paper will largely address them.

While welcoming progress in revising arrangements, we also urge the Government to work constructively with employers aimed at lifting suspensions from most schemes which are currently in place.

Income threshold and the $1,000 tax exemption

The proposal to substantially lift the income threshold to $150,000 for the $1,000 tax exemption is welcomed and largely reflects the changes we advocated.[2] Under these changes the majority of our members will continue to qualify for the benefits of modest share ownership in their employers companies. If an employee does wish to acquire more shares then we believe the tax implications are acceptable and for the most part appropriate.

[1] *Employee earnings, benefits and trade union membership*, 2004.
[2] The FSU and AWU called for the threshold to be lifted to $180,000 to bring in into line with the upper marginal tax rate.

Employee's earning over $150,000 who want to invest in employee share schemes will generally be better placed than others to manage the upfront tax impost that will apply in these situations.

Limited deferral and annual reporting

We agree that deferred taxation is reasonable where there is a genuine risk of forfeiture regarding the shares in question. The proposed criteria for schemes to qualify for deferred taxation in conjunction with new mandatory reporting requirements appear to minimise the potential for inadvertent or intentional tax evasion.

If deferred taxation can only occur under specific scheme structures (ie not by individual choice) then compliance problems associated with the existing arrangements should be minimised. These arrangements should also ensure that the proposed reporting requirements are straightforward and do not impose any significant burden on companies who offer employee share schemes.

We note the recent evidence from the ATO in Senate Estimates[3] regarding their audit program of individuals earning over $1 million per annum which found substantial compliance issues relating to their use of employee share schemes. The examples cited regarding two individuals (one at the CEO level) who had unpaid tax liabilities of around half a million dollars each gives unfortunate validity to the perception that these schemes have been used by executives (deliberately or otherwise) to avoid tax.

A mandatory reporting requirement bringing employee share schemes into the periodic operation of the tax system appears to be a sensible evolution to maximise compliance and ensure the ongoing integrity of these schemes.

If you have any questions in relation to this submission please contact James Bennett on (03) 9261 5405.

Yours sincerely

Leon Carter
National Secretary
Finance Sector Union

Linda White
Assistant National Secretary
Australian Services Union

Paul Howes
National Secretary
Australian Workers' Union

James Bennett
pp Joe de Bruyn
National Secretary
Shop, Distributive &
Allied Employees Association

[3] 2 June 2009.