



TAX FORUM

4-5 October 2011

STATEMENT OF REFORM PRIORITIES

PARTICIPANT NAME AND POSITION

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ORGANISATION

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STATEMENT OF PRIORITIES

Around two or three pages, please. Please address both of these issues:

1. What are your priority reform directions for the tax and transfer system?
See below.
2. How are your proposals financed over the short and longer term?

LIST OF ATTACHMENTS

Feel free to attach supporting papers if you wish. Please list them here.



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I am primarily interested in personal tax and taxation of the Not-For-Profit sector. As a practising tax lawyer and an academic I am interested in addressing issues from an equity perspective as well efficiency. I also believe that simpler tax laws are the ideal, or at least tax laws that can be read and understood by most taxpayers.

My three priority areas are as follows:

1. Abolition of the Fringe Benefits Tax regime. The regime was introduced against a background of non-compliance in relation to non-cash benefits. The rules have produced anomalies and inconsistencies and impose a huge compliance burden especially in relation to matters such as entertainment. I would propose instead that non-cash benefits be included in assessable income, in similar fashion to benefits under employee share schemes. This would also allow more policy based analysis of benefits that should not be subject to tax eg superannuation contributions and also remove the problems that have grown up around the abuse of the concessions by eg hospitals.
2. Reform of the taxation of superannuation regime. Unlike most other countries Australia imposes tax at three levels ie contribution, earnings and benefits stages ie Australia is a TTT regime. Other countries are either EET or TEE (with 'E' representing Exempt and 'T' representing Taxed). The fact that we are out of step with most other countries creates problems of double tax (or no taxation) but our system is also unnecessarily complex partly as a result of the three different levels of taxation. I would support an increase in the compulsory superannuation contribution to 12%. I would also like to see more done to address the fact that many people do not have a period of forty years in the workforce and are therefore not able to accumulate sufficient balances for their retirement. I would also like to see mechanisms in place to ensure that superannuation savings that have received preferential tax treatment are in fact used for retirement by requiring at least a proportion of the funds to be taken in the form of an income stream.
3. Review of the taxation of the Not-For-Profit sector. There has been significant movement in relation to NFPs in recent times. The Government has announced a Charities and NFP Commission and the proposed introduction of a statutory definition of 'charity'. There have also been proposals to address the result of the High Court decision in *Word Investments* in relation to "unrelated business income" and the "in Australia" requirement. While the first two proposals have been welcomed by the sector, the other two proposals are likely to make the tax position of charities and related entities more complex. There are some important tax issues that need to be considered alongside the proposals for a Commission and a statutory definition. They include – should there be different tax concessions for different



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types of entities? Who should make decisions about eligibility for tax concessions: Commission or Tax Office? Who should make decisions about any special conditions that are required for tax concessions? I have written about the complexity of the taxation of charities in Australia compared to UK, Canada and New Zealand (see [A O'Connell 'The Tax Position of Charities in Australia - Why does it have to be so complicated?'](#) Division 30 (gift deductibility) and Division 50 (income tax exemption) of the *Income Tax Assessment Act 1997* are extraordinarily complex and require a complete overhaul and policy analysis. Other concessions such as GST and State tax concessions have similar problems. I would like to see a review of the tax arrangements for charities and related entities done in conjunction with the other proposals.