Corporate
Tax Association

Opinion Article: Executive Director Michelle de Niese writes in the AFR about tax reform – Hysteria over Husic's call shows what's wrong with tax debate

To hear a minister mention the words "tax reform" in their true sense is a rarity. To hear one speak of corporate tax reform is bordering on a unicorn sighting.

The reason why this is the case was beautifully illustrated by the furore surrounding Industry Minister Ed Husic's sensible comments last week on the need to ensure our corporate tax system is capable "of achieving our ambitions".

One would think that the immediate reaction to his observations from an organisation which represents nearly 160 large companies on corporate tax issues would be delight and applause.

Instead, my first thought was for Husic and the afternoon he would inevitably have ahead of him after making what were fact-based and sensible observations about the need for our corporate tax system to change.

So, why does the mention of tax reform (in particular, corporate tax reform) invoke such hysteria in Australia?

Unlike policy development in other areas (such as monetary policy, which has the independent Reserve Bank setting its parameters), tax policy is highly contested.

Although policymaking formally sits with elected officials, reform, research and policy options are generated from a wide variety of stakeholders, including electoral parties, academics, think tanks, tax representatives, advocacy groups and the media.

And while Treasury is the most influential public sector advising body on tax, it is certainly not the only one. And, as recognised in its own publication in 2013 on tax policy formulation, Treasury's influence over the direction of tax policy varies according to the precise nature of each issue.

The reality is corporate tax policy in Australia has been all about protecting our existing corporate revenue base.

Adding to the fierce competition within the tax policy arena is the need for trade-offs between different values and priorities, which inevitably involves political risk.

Add to this the need for the tax system to generate at least enough revenue to finance some of the government's activities; throw in the subjective concept of fairness (what is fair to one taxpayer is usually not considered fair to another), and you start to understand why touching tax is something few politicians do by choice.

The other contributing factor – while not as visible – is the lack of governance and structure supporting tax policy formulation in Australia.

Other than the 2013 Treasury publication and an ATO-Treasury Protocol, there is nothing publicly available on the structure or governance processes underpinning tax policy formulation.

Having little to no visible governance around the formulation of tax policy has made it susceptible to external forces, which have been predominantly political.

A quick glance over tax policy formulation in the corporate tax space over the last 10 or so years paints a stark picture of how Australian governments have used corporate tax policy settings in particular, with all but one of the 40 or so measures introduced during that period related to integrity or disclosure.

The reality is corporate tax policy in Australia has been all about protecting our existing corporate revenue base, not growing it with policies that encourage investment, productivity and international competitiveness.

There is no other corporate tax system in the world as locked down as Australia's in terms of protecting the revenue base, including the level of resources given to the ATO to scrutinise large businesses in particular.

This unwavering policy and administrative focus on integrity and compliance rather than enhancing productivity has meant our system not only doesn't encourage, but actively discourages, investment in Australia.

Plenty of fact-based analysis and reporting has clearly demonstrated that our tax system is failing. It is simply incapable of raising the revenue required to fund the public services Australians want and expect in the future.

And the longer we ignore its inadequacies and avoid facing the need for an honest conversation about its shortcomings and the issues confronting it, the faster we will drift away from our expected standard of living. The 2023 Intergenerational Report, and the one before it, strongly support this conclusion.

If honesty were to play any part in tax policy, we would all be searching for a way to have a fulsome conversation about our tax system and how its failing will negatively affect all Australians.

We would be looking to agree on a path to reform that not only allows but encourages all stakeholders – including politicians - to engage in a conversation about how Australia can ensure its tax system can deliver what is required of it in the future.

The search for consensus – the hardest part in what sometimes feels like an impossible task – would become a necessary one, if honesty played the role it should be playing in advocating for the need for tax reform.

While some of the government's recently proposed initiatives, such as those around production tax credits, can be seen as at least an acknowledgement of the need for change, providing a limited life tax credit regime for a select number of taxpayers is a tax change, not tax reform.

Rather than looking at short-term wins, we should be focusing on tax changes that have a positive effect on behaviours that promote investment, participation rates, innovation and international competitiveness. That is the essential difference between tax change and tax reform.

While it is understood the treasurer has a number of competing short- and long-term challenges to manage, those challenges need to be viewed through the lens of sound policy design rather than political necessity.

It is time for an honest conversation about tax reform in Australia.