

Hotelier: The hotel is their super: How tax reform moves the goal posts mid-game

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By Stephen Ferguson, National CEO, Australian Hotels Association

You don't have to read too many opinion polls lately to see many Australians are fed up – and the Federal Budget appears to have done little to change that opinion.

Making life harder for mum and dad pub operators would not seem to be the way to go for a government looking to be more popular with cynical voters.

Dr Jim Chalmers may have described his fifth Budget as the “most important and ambitious budget in decades”, but Australian hoteliers have been left scratching their heads over tax changes that no one saw coming – and few understand.

Especially when it comes to the introduction of a 30% minimum tax on discretionary trust distributions, and the replacement of the 50% Capital Gains Tax (CGT) discount with inflation indexation, and a 30% minimum tax on real capital gains.

These changes are a big worry for hoteliers and all business owners. And they should be.

The simple fact is hospitality operators are entrepreneurs, who often mortgage their family homes, provide personal guarantees and operate on narrow margins to build businesses that support jobs, tourism and their local communities.

That's a big risk and tax policy should encourage such investment in communities, not reduce the rewards for long-term business ownership. Not move the goal posts mid-game.

Discretionary trusts are widely used by family-owned hospitality businesses because they provide flexibility to manage things like seasonal trading conditions and succession planning. They also allow income to be distributed among family members who actively contribute.

The proposed 30% minimum tax on trust distributions would reduce this flexibility and increase the tax burdens.

Don't forget, this comes at a time when businesses like your country pub are already facing higher wage costs, energy prices, insurance premiums, bank interest rates, fuel levies, and supply chain pressures.

Why is the Government doing this?

It says the reforms are intended to improve housing affordability by reducing incentives to invest in existing residential property. But extending the changes to business assets, commercial property, shares and managed investments is throwing the baby out with the bath water.

To be clear, pubs and hotels are by their nature highly capital- and labour-intensive. Investments in freehold property, refurbishments, accommodation developments and venue upgrades often require a lot of money upfront and take decades to generate returns.

Higher taxation on future capital gains reduces the incentive to undertake these investments in the first place. You don't need to be a genius to work out this would have a negative impact on the economy.

Additional tax burdens may reduce asset values, discourage purchasers and limit access to finance. Lenders may respond by increasing equity requirements or reducing valuations. Hotels could be forced to pay back existing loans and have their cost of borrowing/repayments changed. Refurbishment projects, hotel expansions and new developments are also likely to be more difficult to fund.

The proposed grandfathering arrangements create significant complexity and cost. Hotel owners will be required to determine the value of assets at 1 July 2027 and separately calculate gains accrued before and after that date. This just adds to the mountain of red tape they are already dealing with.

The unheralded introduction of a 30% minimum tax rate on real capital gains is also concerning. Capital gains typically accumulate over many years but are taxed in a single year when an asset is sold.

Applying a minimum tax rate regardless of an individual's broader circumstances may disproportionately affect retirees, small business owners and lower-income taxpayers.

If the proposed trust and CGT changes proceed, many hotel owners will be forced to restructure from discretionary trust arrangements into alternative ownership vehicles such as fixed trusts, unit trusts or companies.

Why should hotel owners be expected to pay for this?

At the very least, the Government should provide comprehensive, zero-cost restructuring relief, including exemptions from stamp duty, CGT rollover relief and other transaction taxes or charges.

Hotels should not be penalised simply for reorganising their affairs to comply with a new tax framework.

Without such relief, many family-owned hotels will face substantial and unnecessary costs that could run into hundreds of thousands of dollars. That's more money which won't be spent on from investment, refurbishment, employment and growth for the suburban or country pub.

And, to point it out again, having a negative impact on the entire economy.

Hotel owners generally do not receive paid annual leave, public holiday penalty rates, overtime, paid sick leave, employer superannuation contributions, or other employment benefits. And yes, our staff are the foundation of a successful hotel business – part of our business family. But for the Government to suggest taxing workers and employers the same does not recognise the significant additional risk employers take.

Many business owners forgo personal income and accumulate little or no superannuation because they continually reinvest profits back into their pub. For many of them, the eventual sale of the hotel effectively serves as their retirement savings.

The pub is their super.

At the very least AHA members deserve consultation around life-changing reforms. There's no room for error here.

The Government needs to talk with the AHA, business and industry groups, lenders and tax experts prior to finalising the reforms.

Simple changes like exemptions or providing concessional treatment for active hotel income distributed through discretionary trusts for example, would make a big difference.

Hoteliers aren't against paying their fair share, but they want a system that is fair for everyone, and don't want the rules changed at half time with no warning.

After all, no one has a job in a pub that's shut up its doors for good.

Stephen Ferguson will be speaking at the **Pub Leaders Summit** on Monday 13 July at Hyatt Regency Sydney. He will be joining the Food & Beverage panel to discuss how issues like produce, energy and supply chain shocks are affecting hoteliers, and how the AHA is advocating on the behalf of hoteliers.

To hear Stephen and many publicans discuss the various issues the industry is contending with, and the new opportunities it is exploring, [secure your ticket for the Pub Leaders Summit](#).

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