

List of recommendations

Recommendation 1

2.92 The committee recommends that an Inter-Departmental Committee (IDC) be established to identify the policy issues facing family businesses that are not adequately captured within the existing policy framework and with existing Australian Bureau of Statistics (ABS) data collection. The IDC should include: the Department of Industry, Innovation, Science, Research and Tertiary Education; the Treasury; the Australian Taxation Office; the Australian Bureau of Agricultural Resource Economics and Sciences; the Department of Resources, Energy and Tourism, the Department of Regional Australia, Local Government, Arts and Sport; and the Department of Employment, Education and Workplace Relations. The ABS should also participate in the IDC.

Recommendation 2

2.94 The committee recommends that the initial focus of the Inter-Departmental Committee (IDC) must be on the specific public policy need for these agencies to identify a family business as distinct from a non-family business. In terms of the policy rationale for a survey (and a definition of family business), the committee recommends that the IDC carefully consider the following issues:

- (a) the need for policy makers to identify the number of family businesses that are small businesses, and if so, whether the definition of small business should be based on the threshold used for tax purposes (annual turnover of less than \$2 million) or the ABS's threshold of fewer than 20 employees;
- (b) the extent to which a definition of family business needs to capture employment data, and the possible effect that different thresholds in the definition will have on the number employed;
- (c) the importance of succession as a policy objective and the need for a definition to identify whether the owners could pass the business on, whether they intend to pass it on, whether they have a formal plan to do so;
- (d) the need for policy makers to identify first, second, third and later generation family businesses;
- (e) the need for policy makers to identify the industry and location of the family business;
- (f) the need for policy makers to identify the number of family businesses from culturally and linguistically diverse communities;
- (g) the need for policy makers to identify the number of non-employee shareholders in a family business and, therefore, the need for data on the number of family businesses that are proprietary companies as opposed to unlisted public companies; and

- (h) the need for policy makers to collect data on the superannuation arrangements of family businesses, particularly the evidence that female family members do not have adequate superannuation arrangements in place.

Recommendation 3

2.96 The agencies represented on the Inter-Departmental Committee should periodically consult with key stakeholder groups to seek their input and feedback on the issues it is discussing. These groups should include Family Business Australia, the Australian Chamber of Commerce and Industry, the Council of Small Business of Australia and the National Farmers' Federation, and consider engaging other peak bodies that may be nominated to represent family businesses of differing sizes.

Recommendation 4

2.97 The committee recommends that the Inter-Departmental Committee report its findings to the Minister for Industry and Innovation within six months of it being established.

Recommendation 5

2.106 The committee recommends that when collecting official data based on a formal definition of family business, the Australian Bureau of Statistics should incorporate a set of clear and targeted questions into the Business Characteristics Survey. The intent must be to deliver the survey as efficiently as possible, including to limit the time taken by respondents to complete the survey.

Recommendation 6

3.11 The committee recommends that the Australian Bureau of Statistics inquire into whether the Business Longitudinal Database can be sufficiently de-identified so as to be made available for research purposes on request.

Recommendation 7

3.39 The committee recommends that as part of its deliberations, the Inter-Departmental Committee (see recommendation 1) should examine the findings on the wealth transfer survey conducted in 2012 by the accounting firm BDO Australia.

Recommendation 8

4.4 The committee recommends that in its deliberations on the specific public policy need to identify a family business, the Inter-Departmental Committee should consider the need for data on the economic contribution of family businesses. This should include the need for data on the contribution of family businesses to Gross Domestic Product, export earnings and employment, both in aggregate and by sector.

Recommendation 9

4.64 The committee recommends that the Inter-Departmental Committee consider the policy need for data on issues including the profits and growth of family businesses of different sizes, and the labour and capital productivity of these businesses.

Recommendation 10

4.68 The committee recommends that the proposed Inter-Departmental Committee assess whether data should be gathered to measure the key characteristics and behaviours of family businesses. In particular, consideration should be given to:

- the value of assets on balance sheets;
- debt to equity ratios;
- the tenure of Chief Executive Officers;
- the average number of years of employee service to the business; and
- philanthropic contributions, as reported to the Australian Taxation Office.

Recommendation 11

5.80 The committee recommends that the proposed Inter-Departmental Committee consider the need to quantify the extent to which family businesses will be transferred or closed in the coming decade as a result of the retirement of the baby boomer generation, and the policy implications for the economy.

Recommendation 12

6.54 The committee recommends that as part of its current inquiry into Division 7A of the *Income Tax Assessment Act 1936*, the Board of Taxation closely review the evidence gathered through this inquiry about the effect of Division 7A on Australia's family business sector. In considering the evidence, the Board of Taxation should consider what measures can be taken to support Australian family businesses, and by extension the Australian economy, while giving due regard to appropriate taxation obligations.

Recommendation 13

6.55 The committee recommends that the government publicly release the Board of Taxation's report into the operation of Division 7A of the *Income Tax Assessment Act 1936*.

Recommendation 14

6.66 The committee recommends that as part of the current analysis of options to reform the Division 6, Part III of the *Income Tax Assessment Act 1936* the Department of the Treasury review the evidence gathered through the committee's inquiry into family businesses in Australia and consult with representatives of the family business sector.

Recommendation 15

6.128 The committee recommends that the Council of Australian Governments, or its relevant Ministerial Council, inquire into whether the rule against perpetuities can be abolished in each jurisdiction, or whether its scope can be limited to appropriately exclude commercial arrangements. In undertaking this review, the Council should consider how many trading trusts are likely to be affected in the next two decades. It should also consider the effect that abolishing the rule against perpetuities in South Australia has had on trading trusts operating in the State.

6.129 If the Council determines that it is not appropriate to abolish or amend the rule, the committee recommends that it should actively engage with the business sector to alert trading trusts to the financial implications of the vesting requirements.

Recommendation 16

7.23 The committee recommends that the Department of the Treasury consult with representatives of the family business sector about the effect of section 113 of the *Corporations Act 2001* on large, multigenerational family businesses.

Recommendation 17

7.25 The committee recommends that the Australian Bureau of Statistics collect data on the effect of section 113 of the *Corporations Act 2001* on Australian businesses.

Recommendation 18

7.59 The committee recommends that the Department of the Treasury review the evidence gathered through the committee's inquiry into the family business sector in Australia and consider consulting the stakeholders identified through this inquiry about the sector's concerns about the effect of Division 83A of the *Income Tax Assessment Act 1997* on their capacity to engage suitably qualified executives. Treasury should advise government about whether appropriate support can be provided, whether through amendments to Division 83A or other mechanisms, to address the challenges faced.

Recommendation 19

7.72 The committee recommends that the Australian Securities and Investments Commission consult with family businesses to gauge their understanding of the *Corporations Act 2001*, in particular directors' duties and liabilities, and work with Family Business Australia and other interested organisations that represent family businesses to disseminate information through education and training. Information could also be usefully provided in plain terms on the MoneySmart website.

Recommendation 20

8.60 The committee recommends that the Australian Securities and Investments Commission review information available on the MoneySmart website about private equity investments, and design information that would assist family and non-family businesses to determine whether it is appropriate for their business to seek private equity finance.

Recommendation 21

8.64 The committee recommends that the Reserve Bank of Australia include representatives of the family business sector on its annual small business panels as an interim measure.

