# The potential use of tax incentives for Indigenous businesses on Indigenous land

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## Foreword

This working paper was originally prepared as a contribution to the Reconciliation Australia Banking Workshop in Sydney in May 2002. CAEPR worked closely with Reconciliation Australia on the planning for this workshop, which focused on the delivery of banking and financial services to Indigenous communities. The proceedings of the workshop will be published later this year on CD Rom by Reconciliation Australia. In the meantime, the circulation of this workshop contribution as a CAEPR Working Paper aims to make it readily available to a potentially wider and different audience.

The remaining three papers contributed to the Banking Workshop by CAEPR staff and Centre Associate are also to be published in the Working Paper series on this website. They are:

- 'Generating finance for Indigenous development: Economic realities and innovative options', by Jon Altman (CAEPR Working Paper No. 15).
- 'The spatial context of Indigenous service delivery', by John Taylor (CAEPR Working Paper No. 16).
- 'Banking on Indigenous communities: Issues, options, and Australian and international best practice', by Siobhan McDonnell and Neil Westbury (Reconciliation Australia) (CAEPR Working Paper No. 18).

In September 2002, CAEPR prepared a submission to the Parliamentary Joint Committee on Corporations and Financial Services Inquiry into the Level of Banking and Financial Services in Rural, Regional and Remote Areas of Australia. This submission will be available at the Parliamentary Joint Committee's website <http://www.aph.gov.au/Senate/committee/corporations_ctte/index.htm>. The Inquiry's terms of reference focus on options for making additional banking services available to rural and regional communities; options for expansion of banking facilities through non-traditional channels; the level of service currently available to rural and regional residents; and international experiences and policies designed to enhance and improve the quality of rural banking services.

The publication of CAEPR's inputs to the Banking and Financial Services Workshop address important issues of public policy. Access to consumer and business banking services remains a fundamental precursor to enhanced economic futures for Indigenous communities in today's world. These papers outline some of the fundamental, but diverse, actions that are needed to address the current banking and financial service delivery shortfalls currently experienced by many Indigenous communities and people.

Professor Jon Altman
Director, CAEPR
October 2002

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## Abbreviations and acronyms

| | |
|---|---|
| AGPS | Australian Government Publishing Service |
| ANU | The Australian National University |
| ATSIC | Aboriginal and Torres Strait Islander Commission |
| CAEPR | Centre for Aboriginal Economic Policy Research |
| CDEP | Community Development Employment Projects |
| EZ/EC | Empowerment Zone and Enterprise Community (Program) |
| GST | Goods and Services Tax |
| IBA | Indigenous Business Australia |
| NIPC | National Indian Policy Centre |

## Introduction

The purpose of this paper is to examine how effective tax incentives could be in encouraging the development of Indigenous businesses on Indigenous land in Australia.

Within the Australian tax system there already exists a range of incentives. Most of them, however, are for the purpose of encouraging development of mainstream business. They include incentives for farming and mining, building and infrastructure development, research and development, the film industry, environmental protection, and general development through development allowances. Nowhere in the Australian tax system are there incentives directed specifically at encouraging development on Indigenous land.

Some countries do use tax incentives to encourage business development on Indigenous land and in regions of low socioeconomic status. The United States, Canada and Germany, for example, have policies of this type. In the United States there are two types of incentives that are relevant to our discussions:

- People and businesses on many Native American lands are exempt from United States taxation. In many cases, the exemption arises from the recognition of Indigenous nationhood or early treaty settlements. In most cases, Indigenous groups are able to implement their own tax regime, which can be applied to Indigenous and non-Indigenous businesses on their land. This has allowed the development of a range of businesses that would not have otherwise taken place. Similar policies exist in Canada.
- The United States federal government has established a new program called the Empowerment Zone and Enterprise Community Program (EZ/EC Program) which operates in both rural and urban areas of low socioeconomic status. This program provides a range of incentives for mainly private enterprise development. They include the creation of new categories of tax exempt bonds for private and institutional lenders, wage and 'work opportunity' tax credits (tax offsets), tax benefits for environmental expenditures, and some capital costs able to be deducted for tax purposes in the year of expenditure. There are also other initiatives such as increased grants for certain activities and preferential treatment for certain tenderers for government contracts. This program is well integrated and its approach should be considered by policy-makers in Australia.

## Background

### The land

In order that the discussion of tax incentives is manageable, 'Indigenous land' is used here to mean only land that is held in freehold and leasehold by an Indigenous organisation. Landholdings by Indigenous individuals are not included because these are usually small, urban and in other ways very different from the major Indigenous landholdings. Native title land is also excluded because the title-holders have only very limited rights to develop their land.

The area of Indigenous land has grown substantially in recent years. This has happened for a number of reasons:

- Aboriginal and Torres Strait Islander reserve land has transferred to Indigenous people;
- land has been granted under land rights Acts (especially in the Northern Territory); and
- organisations such as the Indigenous Land Corporation have purchased land for Indigenous people.

There is one feature that is common to almost all former reserve land and land obtained under land rights Acts. It is that the land has low commercial productivity for purposes other than mining. Indeed, it is this fact that has made it politically feasible for its title to be transferred to Indigenous people. Most is located in the remote parts of the Northern Territory, Western Australia and South Australia. Its low commercial productivity results from geographic remoteness from major trading centres, and/or poor soils and rainfall. The main exceptions are areas on which minerals have been found, and increasingly, where scenic or experiential tourism can exist. Land that has been purchased for Indigenous communities is often more productive, and this includes stations and farms. By comparison with Australia overall, however, it is still mainly relatively remote and unproductive.

While Indigenous land generally has low commercial productivity, it may be very productive for traditional production and cultural maintenance. It is for these reasons that Indigenous people most desire land.

## The people

Most of the communities on Indigenous land experience a range of socioeconomic problems, including low incomes, unemployment, low level of education and skills, ill health, and substance abuse. Commercial development on their land offers an important opportunity to alleviate these problems.

These communities are involved in a 'cycle of poverty'. That is, their socioeconomic disadvantages, in turn, limit their ability to develop commercial activities and so overcome their disadvantages. In particular, commercial development is restricted by low levels of education and training, poor health, and lack of resources of almost every type.

Further, their low socioeconomic status also limits their abilities to benefit from development on their land. The low level of education and training, for instance, results in most of the better paying jobs in the communities being occupied by non-Indigenous people, and the growth in complexity and accountability requirements has resulted in a growing need to employ non-local labour. Thus many of the income benefits which follow development projects on Indigenous land are gained by non-Indigenous people. Cycles of poverty are never easy to break.

## The institutions

All reasonably sized communities have the following institutions: the council, school, clinic, store, garage, canteen and housing company. There is also usually one or more of the following: a cattle company, a fishing business, arts and craft activities, a transport and road repairs business. In some communities there are tourism businesses. These are sometimes wholly owned by the local community, sometimes jointly owned by the local community and other interests, such as Indigenous Business Australia (IBA), and in other cases the partnership includes non-Indigenous companies.

A wide range of organisations undertake business activities, and there is no one-to-one relationship between the type of activity and the type of organisation. Despite this, the following is an illustration of what might be found in a community:

- Indigenous local government—undertakes all of the usual local government activities, but may also engage in commercial activities;
- incorporated firms—the cattle company, the tourism enterprise, the store, the art and craft enterprise;
- partnerships—tourism operations, road repairs and building and activities included under incorporated firms above;
- sole traders—art and craft producers;
- non-profit organisations—housing organisations, the canteens;
- charitable organisations—mothers clubs; and
- foundations—this is a new development in which a commercial activity can be classified as a non-profit organisation.

Different tax considerations apply across this range of organisations and any change in tax will have different impacts on them. For instance, most of these organisations, and hence activities, are considered to be 'not-for-profit' for taxation purposes and are income tax exempt.

## Business difficulties

Communities often have valuable resources upon which businesses can be developed. They may be location, scenic or mineral rich land, ancient paintings, and a unique culture. It is often true, though, that the difficulties outweigh the advantages, resulting in existing businesses generally achieving low profits or losses. These difficulties sometimes prevent business development. Some of these difficulties are unique to Indigenous businesses and others are not.

Below is a catalogue of difficulties. Probably no Indigenous business experiences all of these difficulties, but most would experience a range of them:

- remoteness from markets, resulting in very high transport costs;
- inadequate local and external commercial support services;
- poor agricultural resources;
- inadequate and uncertain capital funding;
- difficulties in gaining normal banking services such as loans and overdraft facilities;
- lack of skilled labour;
- inadequately trained Indigenous—and sometimes non-Indigenous—managers and directors;
- the businesses are small and there is a very high rate of failure amongst small businesses generally;
- they are often new businesses and so there is no history or experience of that type of business in that environment (for example, a tourism business on Aboriginal land);
- where Indigenous people take over an existing business, the existing business is often run down and requires a lot of capital to redevelop it to industry standards (for example, cattle stations);
- because these businesses often receive government financial support, they are required to have corporate structures and are subject to accountability requirements that are very costly and are in excess of those required of a comparable non-Indigenous business;
- community politics interfering with business decisions;
- most communities have ultimate goals for their businesses which are not the maximisation of profit. These typically include employment and training, autonomy, cultural maintenance and development, and caring for their land;
- the Indigenous style of decision-making is non-authoritarian and consensus-based and this results in business decisions being made slowly;
- lack of capital, especially for large projects such as pastoral, tourism and mining developments;
- lack of expertise, especially in management and technical areas; and
- businesses are often not a local initiative, but an idea thrust upon the community.

Despite these difficulties, there are many examples of successful businesses on Indigenous land. There are, for instance, well-known examples of non-pastoral businesses which have been in existence for over 20 years. Such longevity is a significant achievement considering the remoteness of these businesses, regardless of whether they are Indigenous or non-Indigenous businesses. Further, an Indigenous cattle station which was included in the survey conducted for this paper was rated as 'most efficient' by an agricultural advisory company, which rated a number of (mainly non-Indigenous) cattle stations in which it had a management interest. These stations included the second largest cattle station in the world.

As will be seen later, some of the above difficulties, namely, lack of skills, training, expertise, and capital, can be alleviated by changes to the tax system. The difficult development phase of a project can be eased and Indigenous employment can be encouraged.

## The current tax situation

For the purpose of understanding how tax impacts on Indigenous businesses on Indigenous land, and how therefore incentives may work, the author surveyed a number of organisations. They included two large tourism businesses, an Indigenous theme park, an Aboriginal-owned cattle station, a land council, a government department and a statutory corporation, both of which are concerned with Indigenous business development, and a Treasury department. These organisations are based in the Northern Territory, Queensland and the Australian Capital Territory. This author's past experience was also drawn upon. These sources do not constitute a scientific sample from which statistically valid conclusions can be drawn, and a much broader study needs to be undertaken. The results presented here, therefore, can be considered to be only broadly indicative of what is really the case.

The following is a summary of the findings of the survey.

### Income tax exempt status

Across the communities, there is no one-to-one relationship between the legal nature of the organisation, the type of commercial activity it undertakes, and its size. An artefacts business, for instance, may be run by a family, it may be a small company, or part of a large tourism development, or it may be under a community organisation. Its tax treatment will vary depending on which of these it is.

While most of the larger businesses are normal limited liability companies, almost all of the smaller organisations and all of the community organisations are income tax exempt 'not-for-profit' organisations. The two essential conditions for an organisation to be given this status are that (a) there can be no distribution of profits to its members and (b) on winding up of the organisation the capital can be distributed only to another not-for-profit body. In so far as these Indigenous organisations make profits, they are used to support various worthy activities in the community, such as an aged persons organisation, or a cultural or educational activity. While such organisations may be exempt from income tax, they may still be required to pay other taxes such as Goods and Services Tax (GST) and shire rates.

Many of these not-for-profit community organisations are bereft of resources. Their 'administrative officers' may have short-term contracts, tenuously funded by government programs, and with inadequate and defective computing equipment. Meanwhile, these organisations' responsibilities may be complex, including the administration of native title claims, traditional land management, Community Development Employment Projects (CDEP) programs, and the development of small tourism businesses. It has been suggested that these organisations be considered charities with respect to donations, so that donors would receive a tax deduction for any donation made to them. A minor change to the Income Tax Act may allow this.

In many cases, while the commercial business is a taxpaying company, and pays income tax at the standard 30 per cent rate, the Indigenous shareholding organisation will be a community tax exempt organisation. The after tax income received by the shareholding organisation is obviously reduced by this structure, by comparison with the case where it ran the business itself. The reason why this structure is sometimes adopted appears to be that the owners, creditors or government advisers believe that this structure allows the separation of business and community issues to the betterment of the business. It works only sometimes. As Indigenous businesses become more profitable, this trade-off between tax and freedom from community issues will become more expensive, and it is likely that more businesses will be structured as tax exempt community organisations.

The fact that only the larger businesses are subject to income tax, and that they account for only a relatively small part of all commercial activity on Indigenous land, means that income tax incentives will directly benefit only a small part of current business activity on Indigenous land. These businesses may include the cattle company, the larger tourism companies, perhaps the larger service stations and road maintenance companies, and involvement in mining. Income tax incentives may, however, have the effect of encouraging more of this type of investment.

## Low profits

Many businesses are structured as 'for profit' organisations, though for reasons already mentioned, profits earned are generally low. Thus any incentive through the income tax system will be of benefit only to the few, mainly larger companies, that earn substantial profits. Other taxes, however, apply regardless of the profit position of the company. These include GST, land tax, and payroll tax (for larger businesses). They are substantial costs and relief from them would be a significant benefit to businesses that are making losses or small profits.

## Joint ventures and non-Indigenous shareholders

In many cases business development on Indigenous land is constrained by lack of capital and/or expertise. These problems can sometimes be overcome by forming a joint venture between the Indigenous landowners and other parties that provide the required capital and expertise. IBA operates in this way. On occasions it forms a joint venture structured in the following way: the local Indigenous group provides the land or other resources, a non-Indigenous company provides expertise and some of the capital, and IBA provides some capital and protection for Indigenous interests. In some cases, IBA involvement is important in providing comfort for the non-Indigenous investor. The Aboriginal and Torres Strait Islander Commission (ATSIC) and other such bodies also engage in joint ventures. A common motive for non-Indigenous involvement is to assist them gain access to Indigenous land.

It would be desirable if such joint ventures or mixed shareholdings could be encouraged. While in many cases the Indigenous shareholding organisation is income tax exempt, the non-Indigenous shareholders are generally not. A reduction in income tax for non-Indigenous investors and for the joint venture should encourage more development.

Only one non-Indigenous participant in a joint venture was able to be interviewed for this study. His views on tax were as follows.

- Tax was not an important issue for investment. More important were some of the 'business difficulties' listed in the section on 'Business difficulties', above.
- A non-Indigenous joint venture partner commonly uses a separate limited liability company to invest in the joint venture so that the risk associated with the joint venture is isolated from their other business interests. This structure, however, may not allow the 'grouping of losses'. That is, the investor is able to set losses from the joint venture only against income earned by his other companies when they are members of the same wholly-owned group. Sometimes the non-Indigenous joint venture company is not wholly owned by one investor so that the benefits from grouping are lost.
- When business assets are written down, as sometimes happens with Indigenous joint ventures because of poor profit performance, the investor has to wait until the capital losses are realised before they can receive a tax benefit.

With a sample of one, there is no way of telling how representative these concerns are. Joint ventures are an important area and need further investigation.

## The compliance burden

Many large community organisations and businesses on Indigenous land have access to adequate accounting resources, either from within the community or from outside sources, and a well-developed accounting system. For them, the tax compliance burden is generally not great. Other large organisations and businesses, however, do not have access to these resources and for them, the compliance burden is considerable.

Individual income earners, as well as individual, family or clan-based businesses, however, experience almost insurmountable difficulties in dealing with tax matters. Some examples of these difficulties are as follows:

- It appears that very many residents of communities do not submit tax returns, partly because they are unable to complete the forms themselves, and because they cannot gain the aid of a knowledgeable member of the community. In addition, small businesses in the communities have great difficulty with registration and activity statements. The Tax Office, either directly or through possible agents such as Centrelink offices, needs to provide advice and assistance if the tax system is to work effectively.
- The fact that individuals do not submit tax returns results in some Indigenous people who are employed on CDEP wages paying more tax than they should. The sample size of organisations surveyed for this study was too small to conclude how extensive this problem is, but it could be widespread. CDEP wages are treated the same as social security benefits for tax purposes. That is, a worker on CDEP wages alone should pay no tax. However, many community organisations pay CDEP workers top-up because they perform additional duties. This top-up income has tax withheld at the estimated marginal tax rate and, because the recipient is unable to submit an income tax return, they do not receive a tax refund when it is due.
- The new tax system (especially the payment of GST, activity statements and Australian business number registration) has increased greatly the compliance difficulties and costs for small business on Indigenous land.
- Because many individuals and people running small businesses cannot cope with tax returns and other compliance, much of the compliance costs fall on Indigenous organisations such as community councils, land councils and on educated individuals in the communities. This is an unwanted and unrewarded additional burden on people and organisations which are already insufficiently resourced to meet their core responsibilities.
- Not-for-profit tax exempt Indigenous organisations, while incurring the compliance costs for the GST, do not receive the benefit of them as an income tax deduction. It has been suggested that these costs, or part thereof, could be allowed as a deduction from the GST payable by them.

## General comments

People working for Indigenous businesses also expressed general views about the existing tax system, and about the proposal to provide tax incentives. The following general comments were made:

- All persons spoken to expressed qualified support for tax incentives.
- No-one, however, considered income tax to be the major inhibitor to development. This was generally because their businesses were tax exempt or because they experienced losses or low profits. The new tax system, and especially the GST, however, were considered a major problem for small business organisations on Indigenous land.
- Some tax exempt organisations experienced uncertainty over their tax status. In some cases they feared that they would lose it and be required to pay tax. This uncertainty made business planning difficult. There are also inconsistencies in the tax exempt criteria between tax types and between jurisdictions. In some cases, an organisation enjoys tax exempt status because of the type of income or expenditure it has, while in

others the tax exempt status is determined by the structure of the organisation. For example, in some states or territories, CDEP wages are explicitly exempt from payroll tax, while in others they are exempt only if the organisation employing CDEP workers is a not-for-profit organisation. In other cases, an organisation may be income tax exempt but not exempt from payroll tax. There is a need to simplify the tax exempt criteria and to make it uniform across tax types and jurisdictions.

- There was concern by interviewees that tax incentives for Indigenous businesses would create more 'downward envy' (also called the 'Hanson effect') amongst the non-Indigenous population.
- Some were concerned that incentives may create 'unfair competition' for non-Indigenous businesses.
- There was concern that a stimulation of commercial activity on Indigenous land may lead to activities which were damaging to the sensitive ecology of that land. Excessively high cattle stocking rates, which sometimes occur on non-Indigenous stations, were mentioned as an example.
- There was concern that certain types of development (especially that involving gambling and access to alcohol) would worsen social problems and further the destruction of Indigenous culture and society.
- There was concern that development may cause decline of traditional culture.

### Conclusion

The use of income tax incentives will have a limited effect in increasing investment on Indigenous land, because most existing business activities are not subject to income tax and because profit rates are generally very low. The policy may, however, have some benefit for large projects that need non-Indigenous capital and expertise. Exemption from GST would benefit small organisations, and reductions in payroll tax would benefit very large organisations, regardless of their profit status.

## Suggested tax incentives

### Administrative and background issues

When considering changes to the tax system, a number of administrative and background issues may arise:

- **Definitional problems**: Depending on the changes to tax law and practice being considered, a number of definitional problems may arise. There may, for instance, be a need to define an 'Indigenous person', 'Indigenous company' and 'Indigenous land', and these definitions may create difficulties. For example, is an Indigenous company one with more than 50 per cent Indigenous capital, or one with a board composed of more than 50 per cent Indigenous membership, or one with effective Indigenous managerial control?
- **Tax avoidance and evasion**: Tax incentives for Indigenous businesses may lead to non-Indigenous businesses entering into arrangements which would reduce their tax burden, with no gain for the Indigenous community.
- **Legal issues**: If the tax incentives grant benefits to activities, individuals and organisations 'undertaken in prescribed areas', then it is probably best practice if these prescribed areas be specified in the regulations of the relevant Acts. This would easily allow their application to change as Indigenous land changed.
- **Commonwealth, state and territory financial relations**: Some changes to taxes will have implications for financial relations between the governments of Australia. For example, the abolition of payroll tax for Indigenous businesses will reduce the tax revenue for the states and territories and this raises the issue of whether the Commonwealth should compensate them for the lost revenue.

## Some issues for the economist

*The efficiency and equity of the tax incentive approach*

Economists typically examine a policy proposal using two criteria, efficiency and equity. Efficiency is concerned with the 'size of the economic cake' while equity is concerned with 'who gets what share of the cake'. An increase in efficiency is said to occur if a policy increases the consumer value of goods and services produced in the economy. A typical policy prescription from this is that consumers should be provided with goods and services only if they are prepared to pay the full cost to society of providing them. An implication of this is that differential taxes for the same activities, such as those being discussed here, are inefficient because they create differing gaps between the marginal cost of production and the price of items (such as capital).

The equity criterion relates to whether the change in the distribution of income or wealth because of the policy is 'fair'. Often, a policy which is equitable is inefficient, and vice versa (in which case there is the 'efficiency/equity trade-off'). There are no value-judgement-free solutions to these trade-offs. Many economists argue that efficiency considerations are paramount, and criticise the tax incentive approach on those grounds. Others argue that equity considerations should often override efficiency.

This author argues in favour of considering the tax incentive policy on the following grounds:

- Given existing inefficiencies in markets such as Indigenous labour and capital markets, the tax incentive approach may not in fact be inefficient. The apparent inefficiency of tax incentives may merely offset these other inefficiencies.
- Even if tax incentives are inefficient, there are plenty of examples of where government has preferred equity outcomes to efficiency. These include the funding of health and education services, and the horizontal equalisation approach in Commonwealth, state and territory financial relations. It can also be argued that the existing tax incentives for businesses, mentioned in section 1 above, are inefficient.
- Considering the degree of social disadvantage which Indigenous people experience, the cost of the inefficiency (called the 'dead-weight loss'), if it exists, will be small and easily justified on equity grounds.

*The costs of doing nothing*

While tax incentives or other policies designed to increase Indigenous incomes and employment can be seen as a cost, from a policy point of view, this cost must be compared with the potential benefit that may follow. The socioeconomic disadvantage which many Indigenous people experience has very substantial costs to both Indigenous and non-Indigenous society. Increasing Indigenous incomes and reducing unemployment are two well-established methods by which such problems can be reduced. The effectiveness of such policies must be judged in terms of these benefits.

## Possible tax policy changes

Business activity on Indigenous land can, in principle, be encouraged by a number of changes to the tax system. Below is an outline of some of these ideas, and some comments concerning their theoretical efficacy. The political and administrative practicality of the ideas will not be discussed because they are beyond the scope of this paper.

*A reduction in income tax payable by businesses operating on Indigenous land*

This can be achieved in a number of ways:

*A reduction in the company income tax rate below the existing 30 per cent or a 'tax holiday'.* The advantage of these policies is that they are relatively non-distorting, from an economist's viewpoint. It can be argued that there are problems with them:

- These incentives may lead to no or little additional investment on Indigenous land because there are no or few other profitable investment opportunities on the land. The incentives may simply lead to investment elsewhere or to increased consumption. The contrary view is that these are not problems at all. Consider the case where the additional investment takes place elsewhere. It can be argued that Indigenous investments are already too concentrated on their land and that Indigenous investment portfolios, in accordance with portfolio theory, should be much more diversified than they are. That is, Indigenous investments are currently too vulnerable to the fate of pastoral, tourism or mining industries in which they are concentrated. Thus, if the additional after tax income is invested, say, in urban land or a diversified managed securities fund, this would normally be considered to be wise portfolio management. Further, consider the second case where the additional after tax income is spent on consumption. It may also be argued that this is a wise thing to do, for a people whose consumption levels are very low.
- Finally, it can be argued that these incentives provide no special incentive for businesses to help solve socioeconomic problems such as unemployment, and that this should be required of a scheme which reduces government revenue.

*A reduction in the company income tax rate or a 'tax holiday' for all companies operating in zones whose population broadly experiences socioeconomic disadvantage.* Such policies will have the advantages of not stimulating downward envy targeting Indigenous people, and will benefit a broader group of disadvantaged people. Its disadvantages are the same as in those mentioned immediately above.

*Greater than 100 per cent tax deduction or tax offsets for particular types of expenditure, such as Indigenous employment and training.* Such an approach will have the advantage that it will increase after tax profits, thereby encouraging investment, and it will also directly assist by increasing employment and skills in the communities. It should be noted that the Commonwealth government currently offers a range of subsidies for Indigenous employment and training. Since a subsidy can be considered to be a negative tax, it may be said that the government already has this type of tax incentive.

*Accelerated depreciation rates or tax offsets for investment in projects on Indigenous land.* This has the benefit of increasing after tax income, but has the undesirable consequence of favouring capital-intensive, rather than labour-intensive activities.

*A special development allowance for projects on Indigenous land.* A development allowance is a tax benefit provided to an investor in the following form: a special tax deduction is granted equal to, say, 10 per cent of the amount of capital expenditure, and this deduction applies in the first year of the production of taxable income. The development allowance is in addition to normal tax depreciation rates. Development allowances are usually used to encourage investment earlier rather than later. They do marginally increase the after tax rate of return on a project and so should encourage more investment. Their disadvantage is that they tend to encourage capital-intensive rather than labour-intensive activities. The latter assist by reducing unemployment in Indigenous communities.

### *Relief from payroll tax*

This tax is superficially an attractive target for reduction because it is a tax on the employment of labour and, in situations where there is mass unemployment, as in the case of Indigenous communities, such a tax is clearly inefficient. Payroll tax is a state and territory tax and its rates and conditions vary between them. The rates vary between 3.65 per cent and 6.85 per cent. In each state and territory, however, the exemption threshold level of wages is very high by comparison with the wages paid by most organisations on Indigenous land. The threshold or exemption levels are as follows: $600,000 per annum for the Northern Territory and New South Wales, $675,000 for Western Australia, $456,000 for South Australia, $850,000 for Queensland and the Australian Capital Territory, $515,000 for Victoria and $606,000 for Tasmania.

For the purposes of measuring wages on which payroll tax is be payable, CDEP wages are normally excluded. In some cases, including the Northern Territory and New South Wales, it is because they are explicitly exempt by legislation, while in others it is because CDEP workers are employed by government, religious, educational, health, public benefit or charitable organisations. This means that only a few large Indigenous organisations and a few others in which Indigenous people have a financial interest are subject to payroll tax. Thus the easing of the terms or rate of payroll tax will have limited overall effect on employment and investment on Indigenous land. It is a great concern, however, for the few organisations that pay this tax and the benefits would be great for them and their employees.

### *Making all business activities on Indigenous land GST-free*

As mentioned earlier, the GST and the new tax system are a problem for all small and some larger Indigenous businesses, mainly because of the costs of compliance. Some larger Indigenous businesses have the appropriate accounting systems, which means that ongoing compliance costs are small. GST must be charged on tourism, agricultural, mining and other businesses run by Indigenous people and so the removal of GST on those products would give a cost advantage. This could be a very significant competitive advantage in the mainstream market. The compliance costs may not be reduced significantly, however.

In Canada, sales to Indians and their unincorporated organisations on Indian land are generally exempt from ‘commodity and transactions taxes’, including GST. Sales by Indian organisations to non-Indian customers do not generally enjoy that exemption.

### *Tax incentives for non-Indigenous investors in Indigenous businesses*

Indigenous businesses are generally short of capital and expertise. For this reason, joint ventures, partnerships, and investment by non-Indigenous investors are rightly seen as a favourable development, and the tax system may be used to encourage this development. A range of tax concessions could be devised to encourage such investors. Indeed, most of the above incentives could be used.

Joint ventures take many forms. They are usually created by a group of investors for the purpose of achieving a particular goal, such as running a tourism business. For tax purposes, joint ventures are often partnerships, and while partnerships must submit income tax returns they do not themselves pay income tax. The tax is paid by the members of the partnership. Each partner pays tax on an allocation of the partnership net income, which is proportional to the member’s equity in the partnership. This fact can be used to increase non-Indigenous investment in joint ventures by providing differential tax treatment between Indigenous investors, who generally do not pay income tax, and non-Indigenous investors, who do pay income tax.

The Canadian government uses an incentive based on this approach and it is worthy of consideration for Australia. Canada allows deductions such as depreciation and capital cost allowances which are incurred by the joint venture during the early stage of development to be allocated entirely to the non-Indigenous investor for tax purposes (the Indigenous partner does not pay tax). This can significantly increase the after tax income which the non-Indigenous investor receives over the life of the project and thereby encourages non-Indigenous investment in these joint ventures. This scheme could be easily adapted to the Australian income tax system.

State and territory governments can also provide incentives for non-Indigenous investors. They regularly compete with each other to gain large projects and most of the incentives used in that competition can be applied to encourage non-Indigenous investors. For example, state and territory governments sometimes offer payroll tax rebates for wages generated by a project. Such payroll tax rebates could also be provided to non-Indigenous investors in Indigenous joint ventures.

Finally, while non-Indigenous investors can make an important contribution to Indigenous projects by providing expertise and capital, it must be remembered that they will do so mainly out of self-interest, and care is needed to ensure that Indigenous people are not exploited as a result of the arrangement.

*Tax exempt interest on loans to Indigenous organisations*

Under this proposal, an organisation lending money to an approved Indigenous organisation would not include interest received as taxable income. This idea is similar to the United States tax exempt bonds concept. Such an incentive would encourage lenders and could be used to ease the shortage of loan funds for all types of Indigenous institutions.

## Summary

It is clear from the above discussion that not all Indigenous businesses will benefit from tax incentives of the type discussed, and there will be large variations in the level of benefit between those that do benefit.

Table 1 is offered as a summary of these results in terms of types of business activities. In the figure, the following definitions apply:

- 'Community based organisations' (tax exempt not-for-profit organisations) which, depending on the community, may include the store, housing rental and construction organisation, and the canteen. Some of these tax exempt organisations are large, particularly where they are umbrella organisations.
- 'Small scale commercial companies' (small taxpaying organisations) may include the art and craft production and sale organisation, road construction and maintenance business, service station, commercial fishing company, small-scale cattle operation and a mine site regeneration. Often these organisations are structured as not-for-profit or are under a not-for-profit umbrella organisation.
- 'Large-scale commercial companies' (large taxpaying organisations) include cattle stations, tourism hotels and entertainment.

Zero in a cell indicates that the tax change would have little or no direct benefit for an activity, while a star indicates a significant level of direct benefit. Obviously, the abolition of payroll tax for community organisations would be of benefit only to the very large activities.

It is clear from Table 1 that the tax incentive approach will have greatest direct benefits for large-scale commercial activity. This does not mean, however, that small-scale operations will not benefit at all. On the contrary, a well-designed large project will create opportunities for the community's smaller businesses to service the project. For example, a properly designed large-scale tourism hotel development should provide local jobs and demand for the services of community businesses. There should be jobs and business demand in construction, grounds maintenance, food supply, room cleaning, transport, art and craft production, bush tours, and so on.

These results apply only to the direct effects of tax changes.

**Table 1. The impacts of tax incentives**

| Tax change | Community-based organisations | Small-scale commercial companies | Large-scale commercial companies |
|---|---|---|---|
| Reduction in the company tax rate | 0 | 0 | * |
| Greater than 100% tax deductions or offsets | 0 | 0 | * |
| Accelerated depreciation rates or offsets | 0 | 0 | * |
| Development allowance | 0 | 0 | * |
| Payroll tax exemption | * | 0 | * |
| GST exemption | * | * | * |
| Incentives for non-Indigenous shareholders and joint venturers | 0 | 0 | * |
| Tax exempt interest for lenders | * | * | * |

## Conclusion

Tax incentives would have differing impacts on Indigenous businesses on Indigenous land, depending on what taxes they are subject to, and on their profitability. Large-scale profitable income tax paying businesses would benefit from all of the incentives examined; small-scale low-profit businesses would benefit from GST exemption and the tax exempt interest incentive; not-for-profit organisations would benefit from GST exemption, the tax exempt interest incentive, and payroll exemption if they are very large. These statements refer only to the direct benefits from tax incentives, of course. Even an incentive that is directed only at large projects should have benefits to all of the community's businesses through flow-on effects, if the projects are properly designed.

Tax incentives should be considered as being additional to, and not substitutes for, existing government support programs, for the following reasons:

- The economic development that could be generated by tax incentives would never create resources for communities that are equal to those provided by existing government support programs.
- The existing programs are designed to solve particular problems, whereas tax-induced development may have little or no beneficial impact on those particular problems.
- The outcomes of direct government expenditures and grants are generally more predictable than those that would result from tax incentives.

Indeed, tax incentives should be seen as part of a package of policies designed to tackle the problem of Indigenous socioeconomic disadvantage. Australia can learn from the current United States EZ/EC Program which treats socioeconomic disadvantage as a zonal problem, and brings an integrated range of policies to bear for the zone. In Australia, such a program should include a mix of tax incentives, government provision of services, government grants and expenditure, subsidies and preferential contracting. The integrated approach should do the following: avoid overlapping policies (uncoordinated tax incentives, subsidies and quotas, for instance, all aimed at the same problem); ensure complete coverage; and gain the maximum total impact on socioeconomic disadvantage.

While the tax incentives approach is able to provide benefits across the range of Indigenous businesses, it may be particularly effective in increasing the flow of capital and expertise to them. Although there already exist policies which are designed to assist the establishment and running of Indigenous businesses, particularly through ATSIC, little is done at present to encourage mainstream investors to become investors in Indigenous business or to engage in joint ventures with them. Likewise, there are no special incentives for mainstream lending institutions to cater for the needs of Indigenous businesses. Tax incentives may be particularly effective in alleviating these problems.

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