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Consultation on Capital gains tax reforms – arrangements for innovative start-ups

Executive Summary

ASX welcomes the opportunity to provide feedback on the proposed changes to capital gains tax (CGT) arrangements for investment in innovative start-ups. ASX supports the Government's focus on encouraging investment in innovative start-ups and high growth businesses. We support measures that improve access to risk capital for firms that have the potential to deliver significant productivity gains, innovation outcomes and job creation across the Australian economy.

ASX recommends that consideration be given to extending the proposed capital gains tax (CGT) concessions to investments made in eligible innovative start-up companies where investors subscribe for newly issued equity through an initial public offering (IPO) or subsequent secondary capital raising, and where those companies otherwise satisfy the eligibility criteria proposed under the reforms.

Australia's public markets play an important role in funding early-stage and high-potential growth companies seeking to scale their businesses. The proposed reforms should be designed to support investment in innovative companies regardless of whether capital is raised through private markets, through an IPO, or through follow-on capital raisings on a licensed public market.

Limiting the concessions to unlisted companies risks creating an unintended tax distortion between private and public sources of growth capital and may constrain the ability for companies to efficiently access capital in the public markets to grow their businesses. The tax system should remain neutral as to the financing pathway chosen by a company where the underlying economic activity and policy objectives are the same.

About ASX

ASX is a listed exchange group that plays a critical role in Australia's capital markets, efficiently facilitating capital formation, maintaining market integrity, and providing companies with a valuable source of funding that contributes to economic growth. ASX offers listings, trading, clearing, settlement, technical and information services, technology, data and other post-trade services. It acts as a market operator, clearing house and payments system facilitator. It oversees compliance with its operating rules, promotes standards of corporate governance among Australia's listed companies and helps to educate retail investors.

ASX operates markets for a wide range of asset classes including equities, fixed income, commodities and energy. As an integrated exchange, ASX's activities span primary and secondary market services, including the raising, allocation and hedging of capital flows, trading and price discovery, central counterparty risk transfer and securities settlement for both the equities and fixed income markets.

ASX has approximately 2,000 listed entities companies covering a diverse range of industry sectors spanning resources, technology and communication services, industrials and materials, consumer discretionary and staples, healthcare (including medtech), biotech, financials, real estate and utilities.

Importance of public markets for innovative start-ups

ASX is supportive of the policy objectives that capital gains tax arrangements do not disincentivise early-stage investment in innovative businesses given their potential to deliver an outsized contribution to productivity growth, economic dynamism and job creation. The proposed arrangements should be designed to support investment in high-risk innovative activity with growth potential where it may be difficult to access funding to scale up.

Australian public markets are an important component of Australia's innovation funding ecosystem. While the ASX listed market is home to many established and mature companies, it also performs a critical economic function in providing growth capital to emerging businesses and innovative companies that are often at an early stage of commercialisation. For certain businesses, an ASX listing provides access to a broader pool of risk capital than may otherwise be available through private funding sources. This is particularly important for companies that have demonstrated early commercial potential but require additional investment to scale operations, commercialise technology or expand into new markets. As identified in the consultation paper, this includes biotech and medtech firms who have long commercialisation pathways and generally require repeated access to external equity funding.

In some cases, access to public market funding – whether at time of IPO or in the secondary markets – may be the most viable pathway for an innovative company to secure the capital necessary for continued growth.

ASX supports listing of a diverse range of companies across their business life cycle, including emerging growth businesses that may not have operating profits. The ASX listing rules include requirements for admission under a profits test[1] or an assets test[2]. Companies seeking listing admission under the assets test will need to satisfy either a net tangible assets test or a market capitalisation test (among other things):

- the Net Tangible Assets (NTA) test, requiring at least A$4 million in net tangible assets (after costs of fundraising) or
- the market capitalisation test, requiring a minimum market capitalisation of A$15 million at the time of admission.

In addition, ASX generally requires that a company that is seeking admission under the assets test to have at least a $1.5m of working capital.

These admission requirements facilitate access to public market funding by companies that may be at an earlier stage of development and have significant growth potential, notwithstanding that they may not yet be generating profits.

As a result, there is already substantial alignment between the types of innovative, growth-oriented businesses that the proposed reforms seek to support and those companies capable of accessing funding through an ASX listing. To illustrate the point, 15% of listed companies on ASX have a market

[1] See profit test in Rule 1.2 in **ASX Listing Rules Chapter 1 - Admission**
[2] See assets test in Rule 1.3 in **ASX Listing Rules Chapter 1 - Admission**

capitalisation of less than $10m (the majority of this is from the Resources sector) and 31% have a market capitalisation of between $10-50m[3].

Avoiding tax distortions in funding decisions

A fundamental principle of good tax policy is neutrality. Tax settings should not favour one financing structure over another where the underlying economic activity and policy objective are the same.

Restricting the proposed concessions to unlisted companies could unintentionally encourage companies and investors to remain in private markets for longer than may be commercially optimal in order to preserve access to the tax concession, and as such reduce the efficient allocation of growth capital available in the public markets.

Such an outcome would create a tax-induced distortion between private and public capital raising pathways. Providing equivalent treatment for eligible investments made through an IPO or subsequent secondary capital raising would support funding neutrality and ensure that investment decisions are driven by commercial considerations rather than tax outcomes.

Public and private markets play complementary but distinct roles in funding the development life cycle of a company. Many innovative businesses secure seed funding, angel investment, venture capital or founder funding to develop an initial product or proof of concept. However, many can struggle to raise the larger amounts of capital required to commercialise new technologies, undertake clinical trials or expand into new markets. This stage is often referred to as the ‘scale-up’ phase, which is where the economic benefits of innovation are realised. An IPO may be a natural step in this evolution, but it is rarely the final capital raising event for innovative companies with long development pathways. These businesses often require repeated access to external equity funding after listing, including through placements, entitlement offers, accelerated entitlement offers and share purchase plans. If concessional eligibility ceases once a company is listed, the reforms may have the unintended consequence of creating a gap in capital support between the start-up and scale-up phases of a company’s development and growth.

If the concession applies only to private investments, investors with access to private markets may receive favourable tax treatment while retail and other eligible investors subscribing for newly issued equity in an IPO or later secondary capital raising by the same company do not. For example:

- An investor subscribing for shares in a private funding round shortly before listing may qualify for the concession.
- A retail and other eligible investors subscribing for newly issued shares in the IPO of the same company may not qualify.
- A retail and other eligible investors subscribing for newly issued shares in a follow-on capital raising after listing may also be excluded, even where the company continues to satisfy the relevant age, turnover and innovation criteria.

Yet all of the above investments provide new equity capital to support the growth of the company. This would be an unintended and inequitable outcome that is difficult to reconcile with the policy goal of encouraging investment in innovative businesses.

The key policy objective should be to encourage investment into innovative and high-growth Australian businesses. Whether that investment is provided through a private fundraising round, an IPO or a subsequent secondary capital raising should not, of itself, determine eligibility where the company

[3] The proportion of Listed Companies by Market Capitalisation (A$), Bloomberg and ASX Official List, 31 December 2025. This excludes retail and wholesale debt listings, stapled security duplicates and companies with suspended securities or subject to poor liquidity where market capitalisation cannot be determined. Resources defined as Energy GICS Sector and Metals and Mining GICS Industry Sector.

otherwise satisfies the criteria in the regime. Where investors subscribe for newly issued equity in a company that otherwise satisfies the eligibility requirements, the outcome is expected to be the same in terms of the provision of growth capital that supports innovation, productivity and job creation. Extending the concession to IPO investments and follow-on capital raisings would therefore promote policy neutrality, support efficient capital allocation and better align the operation of the reforms with their underlying objectives.

We note that the U.S. Qualified Small Business Stock regime, as referred to in the consultation paper, does not distinguish concessional tax treatment eligibility between investors in new equity issued by a company, irrespective of whether the company is public or private, where all other statutory requirements have been met.

Recommendation

To ensure the reforms operate efficiently and do not create unintended distortions, ASX recommends extending the proposed CGT concessions to investments in newly issued equity through an IPO and subsequent secondary capital raisings, including placements, entitlement offers, accelerated entitlement offers and share purchase plans.

Having considered the number of ASX listings over the last three financial years, ASX envisages that extending the proposed concession to investors in IPOs would not significantly increase the number of eligible companies in which investors would be eligible for the proposed concession. For example, from 1 July 2023 to 30 June 2026, ASX estimates that 68[4] companies listed, collectively raising $6,469m at listing, which meet domestic incorporation, age and revenue requirements under the proposed concession[5]. Given the broad range of sub-sectors that these 68 companies cover it is also likely that a smaller subset of these would meet the innovative eligibility criteria required for concessional treatment once finalised. This equates to less than 23 companies per year, over the last three years that meet the key elements of the proposed test other than the innovative requirement. Extending the concession to secondary capital raisings over the last three years is estimated to cover 352 entities, collectively raising $11,330m in secondary raisings for entities meeting age and turnover requirements[6]. A key criterion for eligibility of the concessional tax treatment rests on an entity being innovative. Our IPO and secondary raising data has not been assessed for this attribute. ASX envisages that a significantly smaller cohort of IPO and secondary raisings, both in the number of companies and the amount of capital raised, would satisfy the innovative requirement[7]. Please refer to the confidential attachments for further details.

ASX considers that extending the concession to newly issued shares through an IPO and subsequent secondary capital raisings, in otherwise eligible companies, would be consistent with the Government's objectives of implementing a targeted measure focused on genuinely innovative early-stage growth businesses.

In the alternative, if the Government is minded to adopt a more targeted concession, ASX recommends that the concession should at least be extended to investors who subscribe for newly issued equity in an IPO by an otherwise eligible innovative company. This could provide a more targeted concession while still addressing the most immediate distortion that would otherwise arise where equivalent investment in

[4] This data includes domestically incorporated entities, less than 10 years from incorporation date, with less than $50m of revenue at listing. Companies may undertake a restructure prior to listing, in what is commonly referred to as a 'top-hat' restructure. From our available data we have not considered whether a company has undertaken a top-hat restructure prior to listing, meaning that there may be businesses within this data set that are older than incorporation date on a look through basis. We assume that the approach for considering whether a company is within the age requirements would be on a look through basis, which would likely result in a lower number of eligible companies satisfying the age requirements for concessional treatment.

[5] Please refer to Confidential Attachment 1 for further details.

[6] The same assumptions have been used for secondary raisings as outlined in footnote 4 above. Please refer to Confidential Attachment 2 for further details.

[7] For example, 80% of the secondary capital raisings ($9,114m of $11,330m) was raised across the following subsectors: Diversified Metals and Mining, Gold, as well as asset management and custody banks subsectors. It is likely that a large number of the companies from these industries would not meet the innovation eligibility criteria.

the same company is treated differently depending on whether it occurs immediately before, or at the point of, public listing.

We would welcome the opportunity to discuss these matters further with you.

Kind regards,

Diane Lewis

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