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6 November 2002

The International Taxation Project
Board of Taxation Secretariat
C/- The Treasury
Langton Crescent
PARKES ACT 2600

Dear Sir,

Review of International Taxation Arrangements - Consultation

Initially I would like to commend the openness of the consultative process and hope that the thoughts and views of RT Group will help achieve the goals of the review.

A. Introduction

As way of background, Rio Tinto Limited and Rio Tinto Plc (the RT Group) operate as a single economic business entity with the same board of directors, a unified management, and a combined portfolio of mineral resources, which is well balanced by both geography and commodity. The RT Group results from the 1995 unification of The RTZ Corporation Plc (United Kingdom) and CRA Limited through a dual listed companies (DLC) structure[1]. Please find attached at appendix No1 a basic outline of our current corporate structure.

The group has operated in the global market place for several decades and has considerable experience with taxation in other jurisdictions and the effect that ultimately has on our shareholders.

As a public company, our objective is always to provide a superior rate of return to all of our shareholders. To this end, all levels of taxation are a significant consideration in our strategic business decisions.

[1] Both companies remain listed on their home stock exchange and dividends are equalised. Further detail on the DLC are set out on page 59 of the RT Group 2001 annual report and financial statements

B. General

As suggested, the RT Group has been involved in the global market place for a considerable period of time[2]. The current DLC structure is a direct result of the pressures and prospects of globalisation. As such, the RT Group has an in-depth understanding of the global markets and the threats and opportunity such a market place has on local economies.

As an initial point, it should be noted that the focus of the consultative document is based on either out-bound or in-bound investors as mutually exclusive concepts. RT Group considers it critical that the analysis and any subsequent policy intent should considered the commercial realistic position of a combination of the two concepts.

Additionally, the paper appears to place considerable emphasis on foreign investment into/through Australia consisting of an interest not less than100%. It is submitted that, in today's globalised market place, strategic alliances and holding companies owning less than 100% are regular commercial investment options. We contend that it is imperative that the level of investment should not alter the tax treatment/decision of any investment decision.

Of the measures suggested in the consultation paper, it is the belief of the RT Group that to ensure the viability of Australia in a Globalised economy that the following measure (discussed in more detail in the submission) should be implemented without delay.

- A participation exemption should be allowed in relation to foreign capital gains and the exempt treatment of foreign dividends should be implemented. This measure would significantly move the Australian tax system to be competitive with the tax system of other developed countries;
- Dividend streaming for non-residents combined with shareholder credits for residents for foreign tax are considered as a minimum for international comparison;
- Interposed entities and entities owning less that a 100% interest in a resident company should enjoy all the tax benefits that 100% owned companies enjoy (i.e. Foreign Dividend Account measures);
- A complete rewrite of the CFC provisions based on sound technical provisions, aimed at specific tax avoidance rather than 'catch all' provisions with exemptions. The RT Group specifically rejects the concept of 'band aid' solutions, as history has taught us that these measure only prolong the underlying problems and remove the issue from being considered as urgent.

In addition to the issue that have been raised, we would appreciate the board considering additional initiatives specific to our industry.

- The RT Group incurs considerable expenditure on international exploration. Currently this expenditure is focused out of the UK. As well as commercial reasons, the fact that the UK treats this expenditure as tax deductible is a strong driver to centre our international exploration out of the UK. To the extent this exploration is successful, this leads to investment and ownership also out of the UK. A deduction

[2] The RT Group Company was formed in 1873. For further history, please visit the web site http://www.riotinto.com/about/companyhistory.asp

for international exploration out of Australia would significantly help in driving exploration out of Australia.

We feel that the deficiencies/problems in the current Australian International system are, in the main (refer section C.2), identified by the consultation paper and the Business Council of Australia discussion paper, and as such have concentrated our comments on ways to achieve an internationally competitive system of taxing foreign source income.

We note that on the 21st October the Government tabled a short report on Australia as a place for trade and investment, and in particular note the comments made to the House:

"In our report ***we comment on the issues of tax, seen as an impediment to business****; the adequacy of Australia's skills base, with investment in education critical to the future of Australia; and the commercialisation of R&D in Australia. On this last issue we are of the view that, in pursuing commercial outcomes, the capability to reach commercialisation should not become the sole criterion for funding an R&D project.*

In conclusion, irrespective of Australia's achievements in encouraging inward investment and promoting export sales, the challenge for Australia and its policy makers at all levels of government is to move forward and put us ahead of our competitors. ***We need to focus on becoming even more competitive than our competitors and not to be both out marketed and insufficiently aggressive in the pursuit of opportunities"***[3] *(emphasis added).*

We would encourage the government to complete its initial inquiry, including the review of international taxation, to make an informed and balanced view of Australia's future economic prospects in the global market place.

C. Overview

Prior to addressing the specific issues raised in the Consultation paper, we feel it important to highlight some general comments.

C.1 Dual Listed Companies and streaming:

The Consultation Paper makes references to Dual Listed Companies (DLC) and implies that companies with such structure can effectively stream foreign dividends to foreign shareholders. We consider this to be materially misleading. A DLC structure does not in anyway enable a company such as Rio Tinto Limited to stream its dividends to different classes of shareholders. Any foreign source income (FSI) derived, which is purely a fact of which legal entity owns that underlying foreign subsidiary, is in no way changed by the structure.

C.2 Issues not addressed:

(a) Partly owned structures

[3] Foreign Affairs, Defence and Trade committee: Report, 21 October 2002 – House Hansard Speaker: Baird, Bruce, MP (Cook, LP Government)

Overall we support the issues raised by the BCA in their discussion paper and the BCA/CTA submission to the Board of Taxation in relation to the 'Review of International Taxation Arrangements – consultation paper'.

Both the BCA discussion paper and the consultation paper address the issues of foreign corporates investing through wholly owned Australian companies ("inbound"), the conduit holding companies regime (Option 3.11) or Australian corporates investing overseas ("outbound") and the effects of the dividend imputation option (Option 2.1) respectively. The RT Group has characteristics of both types of investor, as could many other corporate groups (eg corporate joint ventures). This type of structure leads to the requirement for any new rules to be flexible enough to deal with significant investors such as where ownership into or from Australian entities is not 100%. These issues are set out in more detail in section E.4b below.

(b) CFC Losses

Where a CFC makes a loss, that loss should be able to be applied to the attributable taxpayers in line with the way attributable income is allocated. Additionally, the attributable taxpayer should be allowed to deduct the loss from other attributable income that is derived by the group, and if not able to be used in the current period, perpetually carried forward.

Additionally, as a minimum, the different classes of income should be abolished so that only one computation of attributable income is required.

C.3 Specific Options

As well as generally supporting the BCA/CTA submissions we draw your attention to the following points, which are of specific relevance to the RT Group;

a) Controlled Foreign Companies (CFC)
b) Streaming
c) Conduits
d) Expatriate taxation

These are set out in more detail below:

D Attracting Equity Capital for Offshore Expansion

D.1 General

From the RT Group perspective, in order to maximise returns to our shareholders, where opportunities arise outside of Australia or the United Kingdom (UK), the jurisdiction from which capital is raised and offshore acquisitions are made is based on balanced commercial rationalisation. Along with other major commercial influences, the taxation treatment at the company level and the shareholder level are significant influencing factors in the commercial decision process. Due to the bias highlighted in the paper and the more attractive UK tax treatment of non-UK source income and capital, currently investment from the UK provides a better return for all RT Group shareholders through the DLC structure.

The RT Group feels that to ensure the viability of Australia as a current and future head office/regional representation location, there should be no disparity between non-residents directly investing in non-Australian asset compared with channelling those investments through Australia. Conversely to the current barriers, Australia should consider incentives to bring business to Australia.

We specifically note that the reform of international taxation by countries within the European Community has been explicitly linked to the need to compete (on a European and global basis) to make the location of headquarter companies more attractive. The UK introduced its “substantial shareholding” regime in direct response to changes in the international tax regime in Germany and after a number of other European countries had reformed their systems. Even the USA has signalled an intention to review its system of international taxation to make the USA “an attractive location to headquarter companies”. These reforms are all based on recognition of the economic benefits to a country if multinationals locate their global or regional headquarters in the country.

Generically, to encourage investment in and from Australia, Australian taxation should be removed from foreign source income of Australian resident corporations paid to non-resident investors.

Also to avoid double taxation at the Australian shareholder level, the Australian taxation system should allow all Australian shareholders non refundable credit for all tax paid on the worldwide profits on which they are ultimately taxable.

Overall, in concept, we support both Options 2.1 A and B[4]. We believe it is necessary to have a combination of both options to deal with the different scenarios of resident and non-resident shareholders. This is set out in more detail below:

D.2 Resident Shareholder – Non-Corporate

[4] Page 18, Review of International Taxation Arrangements Attracting equity capital for offshore expansion – Consultation Paper

To achieve the objectives suggested above in its simplest form, we consider that the exemption available to Australian resident corporate shareholders should flow through to the Australian non-corporate shareholder. However, we understand that this would have to be considered in line with current high level of personal tax rates and the Government's desire to remove any tax bias from domestic investment rather than create a bias in favour of foreign investment.

Therefore, the exemption may be partial. If a partial exemption was allowed, we consider that it should be set at a level that reflects the true underlying tax in the foreign jurisdiction. If accepted, the quarantining of deductions should not accompany the exemption, as this would only add significant compliance burden on the shareholder.

Alternatively to any form of exemption, in line with Australian tax policy, the RT Group considers that as our shareholders are assessed on their worldwide income, they should receive a fair credit for taxes paid, regardless of the source of the tax paid. The concept of Option 2.1 A may achieve this outcome.

However the suggestion of a non-contingent credit of $1/9^{th}$ in Option 2.1 A, although we acknowledge is only a suggestion, we believe would not sufficiently represent the tax paid on our worldwide operations and would retain the Government's identified bias at the Australian shareholder level against foreign investments from Australia.

The significant majority of the RT Groups foreign operations are in comparability-taxed jurisdictions[5]. As a general proposition, countries with natural resources are not low taxed jurisdictions. Additionally, although the RT Group has no material attribution of income, any non-active income that would be potentially taxed in Australia under the Controlled Foreign Company rules, effectively leads to a reconciled tax rate of 30%. The proposition, as suggested in the consultative paper,[6] that the low rate of $1/9^{th}$ is to equate with the potential to operate in low tax jurisdictions does not reconcile with the RT Group's operations.

D. 3 Non-resident Shareholder

Foreign source income of an Australian entity should be able to be received by a non-resident shareholder with no Australian tax impost, either by assessment or via withholding. To achieve this objective, the foreign source income (either tax exempt or tax reduced due to foreign tax credits) should be able to be 'streamed' to non-resident shareholders (refer below discussion on Foreign Income Accounts, section E4.b).

As such, in relation to non-residents, we support Option 2.1 B.

[5] Rio Tinto Limited main offshore operations are in New Zealand, PNG and Indonesia .
[6] Page 19, Review of International Taxation Arrangements Attracting equity capital for offshore expansion – Consultation Paper

In relation to options available to alleviate the bias in the current tax system as identified, we would not support Option 2.1 C for the reason set out in the discussion paper[7].

E Promoting Australia as a location for internationally focused companies

Chapter 3 in the consultations paper can be broken down into several main areas:

- CFC's (Options 3.1, 3.2, 3.3 and 3.4)
- Treaty issues (Options 3.5, 3.7 and 3.8)
- CGT non-resident (3.6)
- Foreign dividends received (Options 3.9, 3.11)
- Conduit relief (Option 3.10)
- Company residence (Options 3.12 and 3.13)

These general areas are discussed below.

E. 1 Controlled Foreign Companies (accruals taxation)

Before addressing the specific options raised, a general observation in relation to Controlled Foreign Companies (CFC) should be made. The Australian taxation system, as its main element, is designed on the basis of assessing Australian residents on their worldwide income and capital receipts while restricting Australian tax of non-residents to income and capital either sourced in Australia or effectively connected with Australia. The CFC provisions then endeavour to impose an Australian taxation system that was built on this basic assumption, but ignoring it.

Firstly, the proposition that Broad Exemption Listed Countries (BELC) or Limited Exemption Listed Countries (LELC) reduce compliance costs should be dispelled. It is given that the potential for attribution is limited, however a full CFC analysis is still required to determine that no income is attributable. For example, the simple derivation of interest in a BELC requires the interpretation and application of not only the complex legislation, but also the Income Tax Regulations. Additionally, where income is attributable, any tax paid is nearly always offset by the foreign tax credit, therefore imposing a huge compliance burden on the Australian compliance function with little or, as in most cases, no addition to the revenue.

The RT Group believes that the CFC measures must be rewritten to ensure that, consistent with their original broad policy intent, they are only applicable to cases of potential avoidance and do not impede genuine business operations.

To achieve this objective, the list of countries deemed as highly comparable should be expanded to include most of the countries with which Australia has a Double Tax Agreement and, in particular, Australia's major trading partners in

[7] Page 23 ibid

the Asian region. Entities operating in these jurisdictions should be removed from the accruals regime of taxation.

Entities operating in non-comparable tax jurisdictions should also be exempt where the underlying activities of the business are active (subject to comments below on tainted services income). The determination of the degree of activity in these cases should be supported by the audited accounts with no statutory adjustment and based on a reasonable ratio.

An additional measure would be to allow companies to apply for a CFC exemption on an entity-by-entity basis.

(a) Capital Gains Tax (non Australian Assets) - Exempt the sale of non-portfolio interests in foreign companies from capital gains tax.

As the current legislation stands, where a CFC sells it assets, there is generally no attribution of the profit under the CFC rules. When the company subsequently repatriates those profits, they may be exempt from tax where paid from a listed country, or represent an exempting receipt of an unlisted country.

Conversely, where an Australian company realises a gain from the disposal of an interest in a non-resident company, the profit is taxable, even if a profit made from the sale of the foreign company's assets would not be taxable under the CFC or FIF rules.

Due to the disparity between the two alternatives; the taxation position can effect the commercial considerations of the divestment, almost always encouraging an asset sale. This however can lead to significant commercial ramifications, such as intangible rights over mining assets.

To remove this commercial ambiguity, it is suggested that where an Australian company has a portfolio interest in a foreign company, a profit made from the sale of that interest should be exempt from Australian capital gains tax. This suggestion is of particular relevance if the current exemption system for dividends is expanded to apply to all non-portfolio dividends.

Where the foreign company is subject to the CFC rules, the exemption should apply if the CFC passes certain subjective tests.

Such an exemption will mean that Australian multinationals would be able to decide whether to sell shares in foreign companies or assets of those foreign companies without being influenced by Australian tax considerations.

(b) <u>Option 3.1 – Improving Rollover Relief for corporate restructuring</u>

If the blanket exemption is not acceptable, as with domestic principles, Capital Gains tax (CGT) should only be applicable where an asset is disposed outside of the economic entity or an actual gain is realised.

Australian rollover relief should be allowed on any CGT event between CFCs that are members of the same wholly owned group, regardless of the jurisdiction. Additionally, scrip for scrip transactions not involving wholly owned corporate groups should not result in attributable capital gains.

(c) Option 3.2 – Better targeting the tainted services income rules

Given the global nature of our business, not only do our mineral resources come from many geographical locations, the markets for these resources are also all over the world. Specifically this requires, and is often a statutory obligation, that a local entity be established to market and administer these operations. As suggested in the paper, the current definition of Tainted Services Income inhibits this business activity, create a significant compliance burden and on the rare occasion income is attributable, foreign tax credits (FTC's) reduce, (in most cases are completely eliminated by) any Australian tax.

Additionally, the transfer pricing rules apply the appropriate anti avoidance mechanism.

It is submitted that service income should be excluded from defined 'tainted' activities where there is an underlying active business.

(d) Option 3.3. Expanding the number of Broad Exemption Listed Countries to minimise compliance cost. In line with previous comments, the list of comparable countries should be significantly expanded.

To specifically avoid the need to continually update a list of comparable countries, the criteria for review could be set based on a formula (eg 2/3 of the Australian corporate income tax rate).

(e) Option 3.4 Review of CFC rules

We agree this should be done as a matter of urgency based on the comments above. We also believe a whole scale review should be made in preference to a "band-aid" approach.

E.2 Tax Treaties

The RT Group supports the reduction of withholding taxes as they represent a barrier and a cost to business, and as such supports the re-negotiation of treaties with lower withholding tax rates.

While the Australia-United States tax treaty provides a good base, many areas covered may not be relevant to other country negotiations, so should be used with caution.

In relation to Option 3.7, as the RT Group has significant assets in Indonesia, we would appreciate re-negotiation of this treaty with a view to reducing withholding tax.

With regards to consultation on DTA negotiations (Option 3.8), as with all issues that effect out industry, we would appreciate and encourage any opportunity to provide input into the process.

In relation to the Australia –UK treaty, the RT Group has made representations and has been involved with discussions with the Treaties Panel. We would encourage this forum be used on a more regular basis.

E.3 Non-resident disposal of non-resident company with effectively connected asset

In relation to imposing capital gains on non-residents selling non-resident entities with an effectively connected asset, the RT Group believes that this would create a disincentive for foreign investors to acquire entities with Australian based assets and would question the ability of the administration system to administer this issue.

We do not support Option 3.6

E.4 Resident – Corporate

(a) Non-Portfolio Dividends (Foreign Dividend and Foreign Income Accounts)

We support the Review of Business Taxation recommendation 21.1 and 21.4 that the current foreign dividend account (FDA) be replaced by a foreign income account (FIA) (Option 3.11). However we believe this should be expanded to interact with Option 2.1 B as explained in (b) below.

The current FDA arrangements provide relief from Australian DWT when Australian companies receive non-portfolio foreign source dividends and subsequently pay unfranked dividends paid to non-resident investors (unfranked dividends are normally subject to DWT).

We support the proposition that relief from DWT should be extended to all types of foreign income including portfolio dividends, foreign branch profits and capital gains.

To maintain the integrity of any international tax reform, it is imperative that FIA credits be attached to distributions and pass from one entity to another in the same manner as franking credits.

For the FIA to operate as a general conduit mechanism and provide relief in most common circumstances, it will be necessary for unfranked distributions to be identified as FIA distributions by residents receiving those distributions. Subsequently, relief from DWT can be allowed when those distributions are ultimately paid to non-residents. This will require the FIA to be similar in design to the current franking account.

(b) Foreign Dividend accounts and interposed entities.

Where a dividend sourced from foreign profits is paid between two Australian resident companies, currently a FDA credit cannot arise in the recipient company unless they are 'related' (which requires the companies to be in a wholly owned group). This is a significant shortfall in the current system, and clearly increases the cost of capital where foreign equity investment is less than 100%.

We also believe that this is a detriment to joint ventures opportunities operating in and from Australia.

As such, we consider that a dividend paid from a FDA account in such a situation should retain its character whereby the appropriate credit arises in the subsequent shareholder until the dividend is paid to non-resident shareholders, regardless of the level of equity interest (please refer specific comments in relation to streaming, (Section D.3)).

Additionally, with the introduction of the Consolidations regime and the removal of the intercompany rebate on unfranked dividends, we support the recommendation that company tax on FIA distributions received by a non consolidated resident entity be either refunded/exempt/rebated in order to remove any mitigation of the FIA benefit.

Non-Portfolio Dividends

Option 3.9 suggests that all non-portfolio dividends should receive a blanket exemption. As this would provide tax neutrality between retaining profits offshore or repatriation, in line with other objectives and suggestions, we would support this proposition.

E.5 Conduit Holding Companies

In line with our general policy suggestion, we consider that a conduit holding company regime (CHC) should be considered to allow the foreign income and gains of regional holding companies to flow through to their foreign shareholders free from the imposition of Australian tax.

As already suggested, the current legislation is designed so that Australia never taxes the foreign source income of non-residents. We believe the same policy principle should apply to foreign capital gains of Australian companies owned by foreign investors. Various European countries, including the UK, have introduced schemes for participation exemptions. A participation exemption is a special purpose capital gains tax concession. The exemption is only available upon generally meeting several criteria, such as 'substantial' holdings (for holdings of 10% or more at time of writing).

Consideration could be given to the system in the UK where relief applies to domestic and foreign investors as dividends are given a deemed UK tax credit whatever their source.

Our preferred option would be to provide a general exemption for non-portfolio dividends received from foreign companies (Option 3.9) and for capital gains derived from the sale of non-portfolio interests in foreign companies (as previously suggested in section E.1.a). The exempt gain should be able to be remitted to a foreign shareholder free from dividend withholding tax, through allowing the exempt gain to give rise to a FIA credit without inquiry as to the precise source of the gain.

Only if a participation exemption as described in E1(a) is not possible, which would be simple to administer at both the ATO and the corporate levels, should a CHC regime be considered. To ensure that the CHC concept does not discriminate against investment of less than a 100% a CHC should be defined to include companies that are incorporated in Australia, with a level of foreign ownership. Also, as with the RT Group, where the foreign shareholder Company (Plc) holds its interest in the Australian holding company (Limited) through an Australian holding company, the exempt treatment should not be eroded. To achieve this, the distribution of the exempt income should retain its character in the hands of any interposed entities.

A proportion of capital gains realised by the non-resident investors on disposal of shares in the CHC, corresponding to the unrealised gains on non-Australian assets held by the CHC should also be exempt. We understand the complexity this would create and the detailed valuation that would be required, however we consider that, at the option of the shareholder, such a valuation should be undertaken and an appropriate exemption provided to the non-resident shareholder.

E. 6 Residency

The RT Group supports the use of the place of incorporation as a sole test of residency (Option 3.12). Due to the structure of the RT Group's DLC such a test is considered critical, particularly where no effective solution in DLC cases is available under a relevant tax treaty. Under this proposal, Australia will retain its taxing powers over international business activities using tax measures consistent with its international tax policies, such as CGT, CFCs, FIFs and transfer pricing, making the concept of "central management and control" effectively redundant.

Any change in domestic residency tests must be accompanied by carefully considered transitional or grandfathering rules for companies which are currently managed and controlled, but not incorporated, in Australia, so as to not penalise these companies on ceasing Australian residence.

The RT Group has already made representations on this point to the Treaties panel and UK Inland Revenue in relation to the UK-Australia tax treaty.

F Expatriates Taxation

Under the DLC structure, shared management and other skills is a vital ingredient in the success of the RT Group. However, the current taxation treatment of human capital in Australia is a significant barrier to the utilisation of the individual skills.

F.1 TLAB7

The RT Group strongly supports the moves to provide a four-year foreign source income exemption for temporary residents, the proposed extension of the exemption from the FIF rules and relaxation of super preservation rules.

F.2 Foreign workdays

The paper suggests not moving to a system of exempting foreign workdays from Australian tax similar to that available in the UK and Singapore. The basis for this is to avoid "a tax bias favouring employing temporary residents." The alternative view is that exemption of foreign workdays provides a significant incentive to come to Australia and in certain cases removes double tax (i.e. some countries will tax individuals on days worked in the country regardless of residence status). In any case, it should be explicit that foreign tax credit is available where double taxation occurs.

F.3 CGT treatment of departing residents (Option 5.1)

It has been suggested that double tax treaties are used as the main method to alleviate double taxation for departing residents. As this solution could take a considerable amount of time to come to fruition, the RT Group suggests that the position not be pursued. A better answer would be to remove the departing CGT rule altogether as it is a significant disincentive to remain in Australia beyond 5 years. Countries such as the USA and UK do not have such rules, making Australia internationally uncompetitive.

If the above suggestion is not acceptable, Option 5.1 for consultation is whether residents departing Australia should provide security for deferred CGT liability. Clearly this would be impossible to administer and maintain compliance, unfair to the individual (who after all has not actually sold an asset) and would inevitably mean employers being forced to step in to fund the security payment, thereby increasing the cost to the Australian business.

Further in any case, the calculation of gain should be based on the relevant foreign currency of the asset. This gain would have the relevant tax rate applied and converted into A$. This should avoid the taxation of gains that relate principally to foreign curency movement and would never be taxed in the home country and would never be seen by the expatriate as an economic gain.

F.4 Share options – (Option 5.2)

It has been suggested that the proposed solution to double taxation is via treaties/the OECD approach to sourcing options according to where the individual has been during the period between grant and exercise. In our representations to the OECD, we made the point that this is not a particularly practical approach - i.e. it requires detailed knowledge of an individuals whereabouts to determine tax treatment. However, it can be difficult to determine to which duties an option relates (e.g. past or future performance?). Our preferred approach is that taxation in expatriate situations is determined by the residence status of the individual at grant.

This is the approach adopted in the UK (i.e. very broadly if resident in the UK at grant, liable to UK tax at exercise regardless of location at exercise, with double tax relief where appropriate). This is logical because it takes the view that an option granted whilst resident in a particular country is granted in respected of employment in that country and as such is therefore taxable in that country on exercise. This is also far more practical for employers and employees.

F.5 Cessation event – (Option 5.3)

The paper has asked for consideration as to whether to proceed with the Review of Business Taxation recommendation to treat ceasing to be an Australian resident as a cessation event.

Clearly it is preferable not to proceed with the Review of Business Taxation recommendation to treat ceasing to be an Australian resident as a cessation event. Individuals may have to sell shares they otherwise would have held in order to fund a tax liability. This provides a disincentive to hold shares in an employing company, something which is heavily promoted in all major developed countries. Also more generally provides a disincentive for expatriates with options coming to Australia and again is likely to mean employers meeting employee liabilities.

F.6 ATO specialist cell – (Option 5.4)

The option to consider the ATO establishing a specialist cell to work with employers to deal with the tax administration concerns of foreign expatriate employees.

We strongly support this option

If possible we would appreciate a meeting with the Board of Taxation to discuss in some detail some of the issues in further detail.

Between the 18th and 22nd of November, Mr Chris Lenon, Head of Worldwide Tax for RT Group will be in Australia. Mr Lenon would be pleased to meet with the Board on the above representations and provide his experience of tax worldwide and the recent review of International tax in the UK. We consider that Mr Lenon’s taxation knowledge of various jurisdictions and the broad experience in international commerce with a taxation view would provide an invaluable insight into the basis of what the Australian taxation system must achieve to become competitive in the global market place.

In the meanwhile if you would like to discuss any of the above matters please do not hesitate to call Bruce Matheson on (03) 9283 3960 or myself on (03) 9283 3976.

Yours sincerely

Richard Atkinson
Head of Taxation (Australia)

Appendix 1 RT Group – Basic Group Structure