Publication: Australian Financial Review

Date: 30 April 2013

Parental leave Partnerships skip tax liabilities

Accountants, lawyers win under Abbott

Claire Stewart and Phillip Coorey

Major accounting and legal firms will reap generous benefits from the federal opposition's paid parental leave scheme, without having to contribute to the 1.5 per cent tax to fund it.

The top 35 law firms earn some $5.7 billion in revenue, but most are partnerships and will not be hit by the proposed 1.5 per cent tax on corporate taxable income over $5 million.

"We support a parental leave scheme, and I don't take issue with the [1.5 per cent] amount, provided the funding is fair and spread across those that are going to benefit from it," said **William Roberts** founding principal **Bill Petrovski**.

Mr Petrovski's firm is one of about 550 incorporated law firms in NSW and would be subject to the levy. In contrast, firms such as Herbert Smith Freehills, or Allens which together generated revenue of close to $1 billion, would not.

Opposition Leader **Tony Abbott** continued to defend his policy on Monday, saying many of the largest 3200 companies that will fund the scheme will be better off because, he says, the levy will cost less than existing schemes.

But many professional services firms use their generous parental leave terms as a means of attracting and enticing talent, and may not be willing to move to what could be a less lucrative scheme, observers said.

Revenue flowing through legal and accounting partnerships is taxed at the partner level at personal income tax rates. *The Australian Financial Review* understands the opposition views this higher rate as a sufficient reason not to tax unincorporated entities.

But Mr Petrovski said the lack of transparency and detail about the funding model made it hard to understand why firms with higher employee numbers, higher salaries and higher profitability would escape paying the levy.

"To me it's not an answer to say they pay higher [personal income] tax. That tax isn't necessarily diverted to the paid parental scheme.

"It goes into the general revenue coffers, so it's really not a user-pays arrangement," he said.

Firms such as Slater & Gordon could face a levy of about $550,000, based on their 2012 profits. A spokesman from the firm declined to comment, saying the issue was sensitive.

Mr Abbott's scheme will cost $3.3 billion and offers replacement wages to all women on parental leave, capped at $75,000 for six months.

Last week, Mr Abbott nominated "big accounting firms" as being among the winners under the new scheme.

"If they were to pay the levy but get a tax cut and not have to fund their own schemes, overall they would be better off," he said.

Tax Institute tax counsel **Deepti Paton** said there had been a trend over the past 10 years for such firms to incorporate, but Mr Abbott's scheme could be a disincentive. "It will be a factor to take into account when deciding to incorporate," Ms Paton said. She added that Mr Abbott's policy was "arbitrary in terms of winners and losers."

Paul Stacey, of the Institute of Chartered Accountants, said the extra tax could prove a tipping point that discouraged firms from incorporating, but it would not be a deal breaker on its own. "It would have a marginal additional negative impact – if it was to eventuate, it certainly wouldn't help."

Mr Stacey said the kind of trade-off discussion behind the policy was reminiscent of the failure of the business tax working group to broker a corporate tax cut in return for slashing certain corporate tax breaks late last year.

"Company tax is a blunt instrument in circumstances where businesses use a variety of entities to structure themselves," he said.

A survey of 500 members of Executive Women Australia revealed that an improved paid parental leave scheme was considered the most important women's policy issue for just 14 per cent. More important were equal pay policies (57 per cent), targets for senior positions (51 per cent), and flexible working hours (49 per cent).

WITH KATIE WALSH