BCA
Business Council of Australia

10 July 2026

Brendan McKenna
Assistant Secretary
Tax Analysis Division
Treasury

Dear Mr McKenna

The Business Council of Australia (BCA) is pleased to provide comment on the proposed Innovative Business CGT Concession (IBCC).

The BCA does not support the overall package of proposed changes to the capital gains tax (CGT) discount or the process through which they have been developed. The BCA set a test that any tax reform needs to increase investment, grow the economic pie and boost living standards, and the Budget tax changes do not meet this test. Indeed, the reforms overall will reduce investment, reduce productivity, reduce economic growth, and Treasury estimates they will increase rents, and reduce housing supply by 35,000 homes. These issues are discussed further in the BCA submission to the Senate Inquiry into the package.[1]

The IBCC is essential because the overall package of CGT changes is inherently flawed. We see merit in an IBCC that is broader and simpler to comply with to better support the policy intent of the changes. This would also be more comparable with regimes in other similar countries, would reduce compliance costs, and could offset some of the detrimental impact of the broader CGT package on investment and innovation. The proposed carveout is itself an admission and recognition that the overall package of CGT reforms will reduce investment.

As context, BCA members are larger business and would not be eligible for the IBCC. However, our members conduct business with startups; our members may purchase startups; and some of our members have venture capital arms that co-invest in startups with external investors that might be eligible for the IBCC.

Consultation

This current IBCC consultation is on a specific, isolated, detail of a much larger measure – a proposal for a significant increase in CGT on investment. There has been no genuine Government consultation on the larger measure. The recent Senate Inquiry into the legislation implementing the CGT changes[2] heard about numerous issues with the changes, and the IBCC consultation leaves most of those issues unaddressed.

[1] https://www.bca.com.au/reports-submissions/submissions/senate-inquiry-treasury-laws-amendment-tax-reform-no-1-bill-2026/
[2] The Senate Inquiry into Treasury Laws Amendment (Tax Reform No. 1) Bill 2026.

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While we support the Government consulting on the IBCC proposal, we consider this should have been part of a much broader consultation on the tax measures announced in the 2026–27 Budget. In particular, the financial impact of the Budget measures, including this change, has not been released beyond the forward estimates so a longer-term assessment cannot be done. Greater transparency on the long-term budget and economic impacts would assist the public to understand the overall effect of the package of proposed changes and implications for business investment.

Test for accessing IBCC

The consultation paper proposes the following onerous and highly restrictive criteria for obtaining the IBCC:

- the company is unlisted; and
- the company is independent (a term that is not clearly defined); and
- the business has annual turnover of less than $50 million; and
- the business is less than 10 years old (possibly extended to 15 years in limited cases); and
- it must be an 'active' business; and
- the business must be innovative – meaning:
  - the business must be genuinely focused on developing one or more new or significantly improved innovations for commercialisation; and
  - the business relating to the innovation must have high growth potential; and
  - the business must have demonstrated potential to successfully scale up; and
  - the business must demonstrate it has potential to address broader than local markets; and
  - the business must demonstrate it has competitive advantages; and
- the shares must be held for a minimum 5 years; and
- the owner must not be a company, foreign resident or super fund; and
- the investor must not have used up their lifetime cap on the IBCC; and
- the business must not operate in gambling, tobacco, property development, finance, construction or acquisition of infrastructure; and
- (potentially) the business must register or obtain a ruling from the Department of Industry, Science and Resources.

It will be very difficult to meet all these tests simultaneously. Most innovative companies will not meet all these tests. Businesses will need to self assess their eligibility for the tests which will create significant uncertainty as some of the tests are quite subjective, particularly the innovation test. This innovation test is already an alternative limb of the Early Stage Innovation Company test, but the sole reliance on a subjective test for the IBCC presents a new set of challenges.

If a business wishes to avoid this uncertainty, they will need to seek a ruling, but this will then mean it would ultimately be for a bureaucrat to decide on whether an investment has significantly improved innovations for commercialisation, high growth potential and competitive advantages, and can compete in global markets. It is unclear which regulator would provide this ruling. There is also no clarity on when a business would need to seek a ruling on its status – before they start operating,

when they sell, or sometime in between. This uncertainty creates a significant deterrent to investment – and undermines the IBCC.

The record keeping for the active and innovative business tests will be burdensome, with the consultation paper stating the business "would need to keep records that demonstrate how they meet each of the principles using documentation such as a business plan, commercialisation strategy or competition analysis" (p6). It is likely that these time-consuming and onerous requirements will mean some otherwise eligible businesses do not make use of the IBCC.

Given the very high bar for meeting the IBCC tests, it seems as though only a small number of businesses/shareholders will be able to access the IBCC. As a result, the revenue cost of the IBCC, estimated to be $125 million over the forward estimates, could be an overestimate.

We also note the following in relation to the criteria:

- The minimum holding period of five years will lock in angel investors and early employees, potentially exposing them to higher than necessary risk and forcing capital to be tied up that could otherwise be recycled for other early stage investments.
- The explicit omission of innovative businesses in the construction of infrastructure is perplexing and harmful. The construction industry is clearly in need of innovation, with construction productivity falling well behind economy-wide productivity, as discussed in a recent Productivity Commission (PC) report.[3] The PC noted innovation in construction is low compared to other sectors, and recommended "governments should address unnecessary regulatory impediments to the development and uptake of new building techniques" (p6).
- While the focus on innovative businesses is understandable, the similar overseas schemes highlighted in the Consultation Paper do not have an innovation requirement (see below).
- Many innovative businesses are beyond the start-up phase and would not meet the strict IBCC requirements, but are generating much needed productivity enhancements.
- Similarly, many businesses ineligible for the IBCC would also take on significant risk, with high returns available to only a small number of successful businesses, including mining exploration. Several submissions to the Senate Inquiry highlighted why there is a case for special treatment for early-stage mining.[4] The final returns for those who might be eligible are ultimately at the discretion of a bureaucrat when they decide whether the investment is "innovative".
- While the consultation paper acknowledges a longer period than 10 years may be appropriate for biotech and deep tech, there are other industries where it can take substantial time to commercialise a discovery, such as mining, aviation and financial services.[5]
- It appears the IBCC will not be available for share options, there is no clear reason for this exclusion, given the common use of options for remuneration in other countries.[6]

[3] https://www.pc.gov.au/inquiries-and-research/housing-construction/
[4] See submissions by the Association of Mining and Exploration Companies and the Minerals Council of Australia.
[5] See: https://contentplus.kpmg.com.au/tax-now/articles/CGT-reforms-innovative-start-up-concession-consultation-paper-June-2026/
[6] Op cit.

International comparison

The consultation paper compares the IBCC with CGT concessions in the US, UK and Canada. The concessions in these three countries have one thing in common – they have little or no requirements relating to innovation:

- The US Qualified Small Business Stock concession has no innovation requirement – the component of Australia's IBCC that is likely to be the most restrictive. Furthermore, the US taxes capital gains at lower rates than in Australia.
- The UK's Business Asset Disposal Relief has no innovation requirement, and the company level restrictions appear to be minimal.[7]
- The Canadian lifetime capital gains exemption also has no innovation requirement, and the company-level restrictions appear to be minimal.[8]

The international comparisons highlighted in the consultation paper argue for Australia having much fewer restrictions on the CGT concession, including limited or no onerous innovation requirements.

Compliance costs

The legislation implementing the Budget announcements on CGT, negative gearing and other measures will significantly increase compliance costs. The lengthy requirements around the IBCC will only add to those compliance costs. This is because the proposal has many eligibility tests that need to be met, and substantial record keeping requirements, as detailed above. Given this, the BCA considers the IBCC should be as broad as possible to be competitive and comparable to international equivalents, attract more investment, and reduce compliance costs. The compliance costs should be quantified to help streamline the IBCC in a way that better achieves these objectives.

Conclusion

The BCA does not support the tax increases on investment included in the Budget, including the broader CGT proposal. We support the introduction of the IBCC to mitigate the economic harm from the broader CGT package. Indeed, the IBCC is an admission that the Budget proposals increase taxes on investment – and will likely lead to lower investment, productivity and living standards. The qualifying criteria for the IBCC should be streamlined to increase international comparability, reduce compliance costs, and limit the harmful effect of the Budget measures on investment and innovation.

We would be happy to discuss this submission further, please contact me on [redacted] or Pero.Stojanovski@bca.com.au

Yours sincerely

[redacted]

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[7] https://www.gov.uk/business-asset-disposal-relief
[8] https://www.canada.ca/en/revenue-agency/services/tax/individuals/topics/about-your-tax-return/tax-return/completing-a-tax-return/deductions-credits-expenses/line-25400-capital-gains-deduction.html