Ciliberto Family Business
Presentation to Senate Committee Enquiry into Family Businesses

Peter Ciliberto – MD of the Ciliberto Family Group of businesses.
Angela Ciliberto – Former Director of operations, currently HR Manager.
Current Chairperson - Victorian Chapter FBA & National Board Director.

Corporate Structure & Entities
Ciliberto Nominees Pty Ltd – Trustee for the Ciliberto Family Trust AND Trustee for the Ciliberto Family SMSF.
C-Direct Pty Ltd is the main Trading Business – National Company with Revenue of $23m+ pa and 28 Employees inc 5 family members. www.c-direct.com.au
This business is in transition – or in Succession Planning Mode with the Next Gen.
Danielle Ciliberto Renner – Director of Sales
Andrew Ciliberto – Director of Operations.
We also have a 50% share in an Investment company.
I manage a small property development company.
With my son in law, we starting a "Fund raising business for, charities, schools, sporting clubs etc" www.myfundraiser.com.au

I have 4 Issues I would like to present to this enquiry.

Superannuation – 2 Issues
Superannuation in Family Businesses is an important issue as it facilitates Succession Planning and transitioning the business to the Next Gen.
It also ensures or provides for an income for the retiring or incumbent generation.

SMSF - are proving very attractive to business executives and small businesses.
The Maximum number of 4 members is very restrictive when applied to Family Businesses, particularly when dealing with inter generational family businesses where often more than 4 family members are involved in the business.
For Example - Our situation – currently 5 family members are employees.
My wife and I have an SMSF
My daughter and husband have an SMSF
My son and wife have industry funds.
Why this can't be increased from 4 to say 20 members.
Family Businesses are getting around this restriction with Multiple Family SMSF, but these are cumbersome and administratively expensive.
With the growth of Family Offices, administration of larger member SMSF would be easier and less expensive than the current practice.
Larger member SMSF would also greatly assist with succession planning and inter generational business transition.

My understanding is that:
Can have SMSF with 5 or more members, but they fall under APRA regulation V the ATO – which for a 5-20 member fund is prohibitively expensive.

Proposal
For Family Businesses, the Maximum member Limit for SMSF be increased to 20 and remain under ATO regulation.

Concessional Contributions (Super Guarantee & Salary Sacrifice)
In a family Business there is generally both the incumbent generation and the next generation working together.
Let's consider the situation where we have:
Incumbent Gen – aged 55+, In a succession plan with Next Gen – Typically the Incumbent Gen would be looking to retirement in next 5-10 yrs and looking to maximize salary sacrifice.

The new concessional contribution of just $25k is hardly sufficient to provide for retirement – at a time when they can finally afford to salary sacrifice.

Proposal
For members over the age of 50/55 – Concessional Contributions should be returned to $50k as a matter of urgency.
This is applicable to any business or business executive BUT especially to Family Businesses.
FB Owners would otherwise be required to sell down or sell out the family business to fund retirement.

Trust Distributions
The main purpose of Trusts is – Asset protection, not tax planning.
Trusts are however required to distribute all income each year OR be taxed at the top MTR.
This is a restriction on Family Businesses to retain earnings, invest in the business and internally fund innovation and growth.
There are no such restrictions with both Public and Private companies.

Proposal
I am recommending that Trust Distributions be taxed at the MTR in the hands of the beneficiary & Retained Earnings be taxed at the company tax rate.
OR alternatively simply tax Trusts as a company.
This is already being done in a roundabout way using Corporate Distributions which are taxed at 30%.
However this is cumbersome, less transparent and administratively more expensive.

ASIC Reporting Regulation Re Large Private Coys.

Large private company is one where at least 2 of the following 3 tests apply:

1. Consolidated group revenue of $25m
2. Employees – 50 or more
3. Assets of $12.5M

The above imposes reporting and auditing requirements on what is hardly today a large company.
The tests more likely describe as a medium size company and the tests are in need of review.
This has parallels with the 50 shareholder limit on Private coys. on which the committee has received submissions.

Proposal
The 3 tests be increased by 50-100%

Thank You

Peter Ciliberto
Group MD