An open letter to Senators from the Australian Chamber of Commerce and Industry, Council of Small Business Organisations Australia, Housing Industry Association, Master Builders Australia and the Property Council of Australia

15 November 2026

Dear Senators,

Small businesses can't afford a big new tax on them

In the final sitting weeks of the year, you will be asked to vote on legislation that risks hurting hundreds of thousands of small family businesses and the families who run them, while placing further pressure on Australia's housing supply when we can least afford it.

As organisations representing businesses across the Australian economy, we are united in calling for the government to recognise the malign impacts on small business before the legislation proceeds.

Discretionary trusts are widely misunderstood as a tool for the wealthy. The reality is that around 350,000 small family businesses operate through them. As the ATO confirmed during the recent Senate Committee inquiry, around 99% of discretionary trusts reporting business income were micro or small businesses. They are builders, tradies, café owners, retailers and small developers who use trusts to manage risk, support succession planning and manage unpredictable income. These arrangements have been lawful for decades.

The Bill leaves these businesses with three choices:

- Stay in same structure and face permanently higher tax bills. A 30 per cent minimum tax applies from the first dollar, meaning small business owners, many who receive less than $100,000 per year will have a higher tax rate than employees making $228,000 per annum.

- Elect into a fixed-distribution regime. This removes the flexibility families rely on, and any variation in distributions, either by mistake or to exit for legitimate reasons, could result in a full year of income being taxed at 47 per cent.
- Restructure to a corporate entity or fixed trust. Restructuring could cost individual businesses tens of thousands of dollars and billions across the sector. The paperwork burden is expected to be enormous, and stamp duty will be applied to transferred assets in some states and territories.

Small business can't afford this – neither can an economy that needs small businesses and family builders prioritising investment.

For small businesses and family builders, none of these is a real choice.

Imposing a huge new tax on small business will obviously hurt their ability to operate, provide jobs, and survive. It runs completely counter to the government's expressed desire that the private sector drive new growth in the economy.

We are appealing to Senators to recognise that introducing this new tax on trusts, on top of the recently introduced capital gains tax penalty, at a time when interest rates are going up, fuel and energy prices are high, and the economy is poor and getting worse, is bound to end badly for small business.

This is also a housing issue. Discretionary trusts are one of the most common ways family-owned building businesses are structured. As drafted, the Bill will increase compliance costs, reduce flexibility and undermine the risk management approaches many builders rely on. As these reforms increase construction costs through restructuring, compliance and administration expenses, and reduced business returns, builders will ultimately have little choice but to pass these costs on to clients and homeowners.

A recent survey found 60 per cent of small and medium residential and commercial developers expect this policy will affect the timing or viability of their projects. Of those, 37 per cent said one or more projects would be cancelled altogether.

At a time when new supply is the only long-term fix for Australia's housing shortage, we need to let builders get on with the job, not add more hurdles and disincentives.

We support integrity in the tax system and are committed to working with the Government to address genuine concerns. But reform must be targeted and proportionate. Small businesses and family builders should not bear the cost of measures that fail to distinguish between legitimate business structures and the practices they are intended to address.

Australia needs greater business investment and more homes, we cannot afford poorly targeted reforms that create unnecessary costs and uncertainty.

Senators, you can ensure we do better.

This is a vote with widespread consequences for small businesses, family enterprises and housing supply across Australia. We urge you not to pass this legislation in its current form without properly addressing these impacts.

We remain available to discuss further.

Yours sincerely,

Andrew McKellar CEO	Skye Cappuccio CEO	Jocelyn Martin Managing Director	Denita Wawn CEO	Mike Zorbas CEO
Australian Chamber of Commerce and Industry	**Council of Small Business Organisations Australia**	**Housing Industry Association**	**Master Builders Australia**	**Property Council of Australia**