

TREASURY EXECUTIVE MINUTE

Minute No.

3 May 2013

Assistant Treasurer, Minister Assisting for
Deregulation

cc:Deputy Prime Minister and Treasurer

TAX TRANSPARENCY EXPOSURE DRAFT LEGISLATION

Section 22

– Business groups are generally opposed to the transparency proposal because:

Section 22

: in relation to large closely held private companies, there is the real prospect of indirectly identifying the affairs of individual shareholders.

Section 22

Section 22

Section 22

we have investigated options to address the concern relating to closely held private companies.

Section 47c

Section 22

Section 22

Section 22

Contact Officer:

General Manager
Tax System Division

ADDITIONAL INFORMATION

CLOSELY HELD ENTITIES

There may be some closely held corporate taxpayers whose financial and tax affairs are effectively those of their owners. If such entities meet the \$100 million turnover threshold, it could be argued that the publication of their total income, taxable income and tax payable would indirectly disclose the tax affairs of their owners.

Section 47c

We have explored four options for achieving this outcome with the ATO.

1. A specific exclusion provision

We discussed with the ATO the possibility of a provision that excludes any entity that is directly owned by a single individual.

Section 47c

2. A Commissioner's discretion to exclude some taxpayers from publication

The legislation could provide the Commissioner with a discretion to exclude the data for entities where that publication is reasonably capable of being used to identify the affairs of an individual.

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3. Raising the threshold

The \$100 million threshold could be raised to \$200 million or \$250 million to carve out a greater number of closely held enterprises. Alternatively, an additional threshold could be included to

Section 47c

exclude all private companies.
Section 47c

4. Extending an ASIC grandfathering clause

Approximately 1500 large proprietary companies have an exemption from having to lodge a financial report with the Australian Securities and Investments Commission (ASIC). These companies are required to prepare a financial report but exempt from lodging it with ASIC if they meet certain criteria, pursuant to a 1995 'grandfathering clause' for former exempt proprietary companies.

Section 47c

The particular concern raised in this context was the potential for disclosure of hitherto unpublished commercial information. Submissions, therefore, argued that this group of companies should be excluded from the proposal. The advantage of this approach is that there is a static list of applicable companies that would ease administrative burdens and it would be consistent with the ASIC exemption.

Section 47c

ATTACHMENT A: LETTER TO THE PRIME MINISTER



The Hon David Bradbury MP
Assistant Treasurer
Minister Assisting for Deregulation

The Hon Julia Gillard MP
Prime Minister
Parliament House
CANBERRA ACT 2600

Dear Prime Minister

Section 22

Section 22

The view was expressed in some submissions that publication of the information in relation to large closely held private companies could potentially indirectly identify the tax affairs of individual shareholders.^{Section 47c}
Section 47c

Section 22

Yours sincerely

DAVID BRADBURY

ATTACHMENT B: EXPOSURE DRAFT LEGISLATION

EXPOSURE-DRAFT

Section 22

EXPOSURE-DRAFT

EXPOSURE-DRAFT

Section 22

EXPOSURE-DRAFT

EXPOSURE-DRAFT

Section 22

EXPOSURE-DRAFT

EXPOSURE-DRAFT

Section 22

EXPOSURE-DRAFT

EXPOSURE-DRAFT

Section 22

EXPOSURE-DRAFT

EXPOSURE-DRAFT

Section 22

EXPOSURE-DRAFT

ATTACHMENT C: DRAFT EXPLANATORY MEMORANDUM

2013

EXPOSURE DRAFT

*IMPROVING THE TRANSPARENCY OF AUSTRALIA'S
BUSINESS TAX SYSTEM*

DRAFT EXPLANATORY MEMORANDUM

Section 22

Section 22

Section 22

Section 22

Section 22

Section 22

Section 22

Section 22

Section 22

Section 22

ATTACHMENT D: DRAFT PRESS RELEASE

**ATTACHMENT E: SUMMARY OF SUBMISSIONS TO DISCUSSION
PAPER**

IMPROVING THE TRANSPARENCY OF AUSTRALIA'S BUSINESS TAX SYSTEM

SUMMARY OF SUBMISSIONS

Treasury received 21 responses from the discussion paper on the tax transparency proposals.

- The threshold should be higher. Some submissions suggested a threshold of \$250 million or even \$1 billion. This would carve out more closely-held companies where the disclosure could reveal an individual's tax affairs. Section 22
Section 22

- Safeguards should be put in place to protect the privacy of shareholders of large, closely-held companies. Submissions also noted that some large proprietary companies had a grandfathered exemption from lodging their financial reports with ASIC.