Section 22

Document 1

From:	Section 22
Sent:	Monday, 2 March 2015 11:49 AM
To:	Section 22
Cc:	
Subject:	RE: [DLM=For-Official-Use-Only]
Attachments:	QB Labor MNE policy.docx

Section 22

Please see the attached Question Brief on Labor's proposed multinationals measure

Section 22

Manager, International Tax Unit

Corporate & International Tax Division
The Treasury, Langton Crescent, Parkes ACT 2600
phone: Section 22
fax: Section 22
email: Section 22 @treasury.gov.au

From: Section 22
Sent: Monday, 2 March 2015 10:26 AM
To: Section 22
Cc:
Subject: RE: [DLM=For-Official-Use-Only]

Sure – I discussed with Section 22 All in hand.

Section 22

From: Section 22
Sent: Monday, 2 March 2015 10:25 AM
To: Section 22
Cc:
Subject: RE: [DLM=For-Official-Use-Only]

Particularly keen for the comments on impact on growth Section 22

From: Section 22
Sent: Monday, 2 March 2015 10:24 AM
To: Section 22
Cc:
Subject: RE: [DLM=For-Official-Use-Only]

Section 22

Would you let Section 22 know please?

Thanks

Section 22

From: Section 22
Sent: Monday, 2 March 2015 10:23 AM
To: Section 22
Cc:
Subject: [DLM=For-Official-Use-Only]

Hi Section 22

How far away are we on something being sent up on the proposals we discussed.

Section 22

Section 22
Office of the Treasurer, the Hon Joe Hockey MP
Section 22 | Section 22
Canberra Mobile

LABOR EYES $2B TAX EVADED BY MULTINATIONALS

TOP LINES:

- The Government is leading the global fight against tax avoidance by multinationals.
  - The Government has recently passed $755 million in measures to combat tax avoidance by multinationals.
  - The ATO expects to raise $1.1 billion from additional funding that the Government has provided them to audit multinationals.
- The Government is continuing to examine ways to strengthen Australia's tax laws and monitor overseas developments and will not hesitate to take further action should it be required. We will have a look at the details of the Opposition's package once they are released.
- However, any changes to Australia's tax laws need to be well-considered. The Opposition has a track record of announcing measures that would restrict economic growth while doing nothing to prevent tax avoidance.
  - The cornerstone of the Opposition's proposed change to the current thin capitalisation rules would inevitably compromise economic activity.
  - The measure is likely to affect both Australian and foreign owned entities. Legitimate activities of Australian headquartered multinational companies would be adversely impacted.
  - This may increase their costs and encourage them to relocate offshore.
  - The measure does not address profit shifting and base erosion that is leading to the double non-taxation of profits, particularly in the IT sector. The OECD BEPS project is specifically dealing with this issue.
- There is very little information to inform the Opposition's claimed revenue saves from a world-wide gearing test.
  - Most entities use the other debt tests and very little information is available on the impact of having a single test based on the gearing of the global group.

COALITION ACTION:

- The Government has passed legislation tightening the thin capitalisation safe harbour limits and closed a loophole to ensure that the foreign non-portfolio dividend exemption for Australian companies only applies to returns on equity.
- The changes to the thin capitalisation rules and the foreign non-portfolio dividends implemented by the Government are expected to provide an increase in revenue of $755 million over the current forward estimates period (to 2017-18).

KEY FACTS AND FIGURES

- The ATO has $242 million in funding for its International Structuring and Profit Shifting (ISAPS) program over four years (2013-17). $87.6 million of this was provided by the Government.
- At the end of this financial year, the ATO estimates it will have completed 200 reviews and 41 audits. Of those 41 audits, 12 are of technology companies. To-date, the ATO has raised $250 million in tax liabilities and estimates that it will raise $1.1 billion by the end of the program.
- The ATO is also working with tax authorities in a number of countries to develop an informed global view of the activities of multinational companies. In turn this will help the ATO to review companies' compliance with tax laws in Australia.

BACKGROUND:

- Several media outlets are reporting on the Opposition's plans to clamp down on multinational tax avoidance as alternative budget saving measures. The Opposition policies are reported to have been costed by the Parliamentary Budget Office and are estimated to raise at least $1.9 billion in the first three years.
- The Opposition plan contains the following four elements:

Element	Estimated additional revenue
Thin capitalisation – reduce the allowable debt to fund the Australian operations of a multinational enterprise to the same gearing level as the global group.	$1.65 billion in the first three years
Anti-hybrid rules to stop companies using hybrid structures to reduce tax.	$100 million
Third-party reporting and data matching by bringing forward the measure by a year	$90 million
Increase ATO funding to investigate and pursue multinational profit shifting	$76 million

Thin capitalisation changes

- There is little detail on Labor's proposal. However it would seem that the proposal involves going forward with a single rule to limit the allowable debt for Australian operations to the level of gearing of the global group. This would mean the following tests would no longer be available:
  - The statutory safe harbour debt limits (capital limit for banks); and
  - The arm's length debt/capital tests.

Anti-hybrid rules

- This issue is being canvassed by the OECD/G20 Base Erosion and Profit Shifting project.

- In September 2014, G20 Finance Ministers welcomed the significant progress achieved to date on the OECD's 2-year BEPS Action Plan. This included a plan for hybrid mismatch arrangements and Country by Country reporting.
  - The remaining recommendations will be finalised by December 2015.
  - The OECD and G20 member countries have been consulting with business on this agenda and will continue to do so. The OECD is currently developing implementation guidance on the anti-hybrid rules, which is due to be finalised in September 2015.
  - Given that timing of the finalisation of the OECD implementation guidance, it would be infeasible to start any new rules by 1 July 2015.
- THE OECD BEPS plan is intended to provide coordinated rules to eliminate hybrid mismatch arrangements that can be used to achieve double non-taxation including long-term tax deferral.

Deferral of the measure tax compliance through third party reporting and data matching

- Under the measure business and government will provide information to the ATO on taxpayers that the ATO will use to ensure the taxpayers are complying with their tax obligations. The measure was announced in the 2013-14 Budget and was to commence on 1 July 2014.
- The Government has deferred its commencement to 1 July 2016. The deferral was in response to concerns raised by stakeholders about the original commencement date, the proposed design of the reporting arrangements and likely compliance costs for the proposed reporters.
- Business need at least a year to make systems changes from legislation to collect the information and the legislation has not been introduced in to Parliament.
- By bringing forward the commencement by a year, it will increase the costs for business and significantly increase the risk of implementation for business and the ATO.
- Treasury and the ATO are working in consultation with affected stakeholders to identify alternative reporting arrangements that would utilise existing business systems to provide the necessary information for data matching whilst minimising compliance costs to the extent possible.

AFR - LABOR PLANS TO RAISE $2B BY STOPPING MULTINATIONAL TAX EVASION

Opposition Leader Bill Shorten wants thin capitalisation rules changed to reduce the debt against which companies can claim tax deductions. Fairfax Media Australia -

Phillip Coorey

Federal Labor will announce plans on Monday to recoup almost $2 billion by clamping down on multinational tax evasion as it begins pushing back at demands that it details alternative budget savings.

In its largest policy to be unveiled so far, Labor will announce a four-pronged strategy that will benefit the budget by more than $500 million a year and raise at least $1.9 billion in its first three years of operation.

Labor Leader Bill Shorten says it is unacceptable that more than half of Australia's annual $600 billion cross-border trade involved companies transferring money from their Australian arms to their overseas parent companies or subsidiaries.

Of this, $115 billion went to such corporate tax havens as Switzerland or Singapore.

The policy, which Labor says was costed by the independent Parliamentary Budget Office and designed in consultation with tax experts, industry and academics, draws from the OECD plan to counter base erosion and profit shifting.

The first element will be to make changes to the current thin capitalisation rules to reduce the amount of debt against which companies can claim tax deductions in Australia. Presently, companies can claim up to a 60 per cent, debt-to-equity ratio for their Australian operations.

Under Labor's policy, a company's tax deduction would be assessed on the debt-to-equity ratio of its entire global operation. For example, if a company averages a debt-to-equity ratio across all its subsidiaries of 30 per cent, them it can only claim tax deductions of that level in Australia.

The proposed change to thin-capitalisation rules, likely to be resisted by the big business community, is the largest of the four proposed changes and is estimated to save $1.65 billion of the $1.9 billion in the first three years.

The second element will be to stop companies using hybrid structures to reduce tax by aligning Australia's tax rules on hybrid entities and instruments with the rules of other nations. This will reduce opportunities for companies to double-dip by claiming tax exemptions in some countries and deductions in others.

Mr Shorten will also promise to bring forward by a year plans to improve compliance through third-party reporting and data matching. The fourth element will be to increase funding to the Australian Taxation Office by $67 million to investigate and pursue multi-national profit shifting.

"How can we ask Australians to work hard and pay tax if we let big multinationals off the hook?" Mr Shorten said.

"How can Australian businesses compete if they pay more tax at home than big multinationals."

The release of the policy will also weaken a push by the government this week to claim the budget will be much worse off in 40 years under Labor than it would under the Coalition.

In an unusual move, the government will use this week's intergenerational report as a cudgel with which to bludgeon Labor.

The report, released every five years under the Charter of Budget Honesty, is supposed to estimate the key costs to the budget over 40 years caused by an ageing population, based on current budgetary settings.

But the government has changed the rules. The report will dedicate one section to the size of the 40-year budget blowout under the settings of the former Labor government and not take into account any policy announcements Labor makes between now and the next election.

Another section will detail the improvements over 40 years by taking into account the budget savings the government has passed so far.

Prime Minister Tony Abbott said on Sunday that although the outlook would still be sobering when the Coalition savings were factored in, Australians should look at it as "the glass is half full".