

Director
Corporate Tax Policy Unit
Treasury
Langton Cres, Parkes ACT
2600

Dear Director,

Thank you for the opportunity to submit a response to the consultation on the proposed legislation relating to Franked Distributions and Capital Raising.

I object to the proposed legislation changes.

I believe the draft legislation is inequitable to Australian companies and shareholders and it could inadvertently impact situations of legitimate company operations. The draft legislation fails to recognise the fundamental principle underlying the franking regime and the reason for its creation, the avoidance of double taxation on company earnings.

The simple facts are:

1. Distribution can only be franked if tax is paid by the company. Under no circumstances, imputation credits can be passed to shareholders without paying the tax to government.
2. Most shareholders in the tax rate of 30% or above are better off without contributing capital as after-tax money adjusted for imputation credits would be less than capital contributed.
3. There have been many changes to the tax and superannuation system over the last 30 years. They have been accepted by general public because franking credits introduced some fairness into the equation and avoided double taxation.
4. The retirees who are on low tax rates benefit due to refund of imputation credits. However, the extent of the benefit is limited by various caps in place.
5. Making it retrospective because something was proposed 6 years ago makes no justifiable sense.
6. It also applies to private companies, not just large corporations. It may add to substantial pressure on owners where they have already made distributions for living purposes and have to inject capital due to deteriorating financial circumstances of the company.

The Franked Distribution and Capital Raising draft legislation, if widely applied, will lead to the demise of the franking system. It will stop Australian companies who issue new shares under a Dividend Reinvestment Plan (DRP) from paying franked dividends and significantly increase the cost of capital for all franked dividend paying Australian companies. It will also risk the stability and integrity of the Australian banking system by inhibiting effective capital raising during challenging economic periods such as the start of the coronavirus pandemic. If passed, its application would also unfairly burden Australian investors with retrospective tax debts, to be paid at a time of economic uncertainty.

Please contact me on via phone or email if you have any questions on my submission.

Kind regards,

Pradeep Agrawal