Submission regarding retrospective tax on franking credits

APPENDIX

I strongly object to the tax measures proposed – on the grounds that follow.

A. The Stated Rationale

I. *The stated rationale for this proposal is spurious in theory and in practice. It will work to the detriment of many profitable commercial ventures and the economy at large. It will distort proper functioning of the capital markets in respect of the financing of otherwise viable capital investment opportunities in high growth, high risk regimes such as mineral extraction.*

II. *The fundamental principle of avoidance of double taxation on corporate profits is offended by this proposal, if only in the singular context identified. However, at a whim, similar measures could on this precedent be set by fiat in other contexts – with comparable adverse consequences.*

III. *The clawback mechanism put forward is, purely and simply, a device for raising revenue that will 'fill a budget hole'. The current federal 'budget hole' is a matter properly addressed through current changes to government policy settings - not through a retrospective impost on taxpayers who have observed all past rules.*

IV. *The justification for this claim on past franking credits is politically concocted. This proposal can for good reason be charaterised as 'a raid on the savings of investors' to avoid hard decisions in management of the current budget deficit.*

V. *That a previous government canvassed a similar approach is no justification – the idea was abandoned, as should be the present proposal.*

B. Retrospectivity

I. *A retrospective change of this nature constitutes a serious breach of trust between the government and its electorate. Voters should reasonably believe, certainly where personal finances are affected, that the rules they are bound to observe today will not be rescinded tomorrow, not even as in the present case by an alternative government, absent some moral imperative.*

II. *In the present case, since the sole purpose of the proposed change is to generate revenue for purposes having no foundation whatever in morality, condemnation of the proposal is justified.*

C. Discrimination

I. *The proposal is discriminatory, at least as between those whose investment strategies are designed to yield current income and those who desire more capital growth.*

II. *In particular, holders of shares in the high risk, cyclical, capital intensive industries that only periodically generate windfall profits will be disproportionately affected.*

Discrimination Contd

III. *Clearly, the realisation of franking credits arising from a peak of the resources market cycle in the last five years has been targeted in this proposal – back-dated to 2016. Not dissimilar circumstances would apply to commercial banking.*

IV. *It follows that self-funded, SMSF supported retirees with portolios biased towards dividends and franking credits will be seriously disadvantaged – not only by the impost on past earnings, but by the diminished capital value of all relevant holdings after an inevitable re-rating by the stock market.*

V. *It is noteworthy that no politician (precluded from share portfolio ownership) will be affected by implimentation of this proposal.*

VI. *The proposal is morally and practically speaking odious on the grounds both of discrimination and equity.*

D. A real life instance

I. *This self-funded retiree and manager of a modestly sized SMSF has estimated the financial burden of the subject retrospective tax to approximate $50,000 representing 30% of normalised annual income for the fund since 2016 – the whole of the levied sum being payable on demand. The cash flow consequences of this for the fund will be severe.*

II. *The aggregate tax impost approximates four month's of current SMSF income. If the portfolio is unadjusted, or even if it is, SMSF income in future years is likely to be reduced by up to 10%.*

III. *I have, over the last thirty years into my retirement, been quite successful in managing the SMSF portfolio. Now, it seems, I stand to be punished for fulfilling the basic objectives of the investment strategy (income, with preservation of capital) mandated and enforced by the Australian Taxation Office.*

E. A hypothetical

I. *As noted above the liability for retrospective tax payable by this retiree's SMSF would be equivalent to four months income for the fund.*

II. *It is improbable that each member on the Government's benches would be willing to forego four months salary this year, and one subsequently, to help fill the government's current budget hole.*

III. *Is all this fair and reasonable?*

For and on behalf of Ledingham Nominees Superannuation Fund

Philip Cooper

4/10/22