

Director  
Corporate Tax Policy Unit  
Treasury  
Langton Cres  
Parkes ACT 2600

By email: [frankeddistconsult@treasury.gov.au](mailto:frankeddistconsult@treasury.gov.au)

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.

We object to the proposed legislation changes.

### **Preamble**

We 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 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.

### **Our Situation**

We have been retired for some time and are unable to return to work. We are members and trustees of the SMSF that we manage which was established in line with long standing legislation, and we rely upon the pension we receive from it. We have read the government discussion paper on proposed changes to the franking system and are most concerned that the intent of the proposal is obscured by vague and disturbing language.

Some of our concerns include the potential for disruption of the stock market, company operations and our SMSF; badly affecting our ability to manage our needs, plan into the future and handle the many potential unintended consequences.

The idea of a significant back dating of changes seems particularly punitive and unfair when decisions we as trustees made for the SMSF were made according to the rules applying at the time. To contemplate a retrospective rule change and consequent tax burden would place the Fund in a very difficult position.

If the intent of the proposed changes (as it seems to be) is to tackle unethical behaviour, then the wording of the discussion paper does little to assist one to understand or identify what that actually means.

There must be more time allowed for clarification of purpose and for all concerns to be heard and allowed for.

In conclusion, whilst we appreciate Treasury is trying to deal with situations involving tax avoidance with respect to franked dividend distributions, the proposed legislation, as drafted, will fundamentally change the nature of how Australian companies manage their capital, increase their cost of capital and negatively impact Australian shareholders

Please contact us if you have any questions on our submission.

Yours sincerely,

Malcolm Dean Birgit Dean

---

---