

Director  
Corporate Tax Policy Unit  
Treasury  
Langton Cres  
Parkes ACT 2600

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

05 October 2022

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 **strongly object** to the proposed legislation changes.

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, **such as ourselves**, with retrospective **tax debts**, to be paid at a time of economic uncertainty.

The proposed legislation would burden thousands of Australian shareholders who have planned or **in our case**, are planning for retirement, placing undue stress on individuals and on the Australian pension system.

The dividend imputation system has not fundamentally changed for over 20 years and implementing change now, and retrospectively, on people who are planning or are already retired and, in many cases, **cannot return**

**to work**, will burden individuals, their families and in turn the economy, all of which will face economic uncertainty.

We note the retrospective application to 19 December 2016 would unfairly prejudice franked dividends paid out to shareholders of Australian companies and leave them/**us** with unexpected/substantial tax bills for dividends they/**we** have since received, to be paid at a time of economic uncertainty. This is of particular concern to us **personally** who rely on fully franked dividends as income, with our financial situation already strained due to a workplace injury (and subsequent loss of job in 2020) having since left Peter Gersch **unemployable**. With this in mind, we would be facing severe financial hardship if ever required to 'pay back' past rebates relative to franking credits, with our ongoing **mental health** also of serious concern. **Any approval of said draft legislation would prove just as devastating for us both going forward.**

The draft legislation appears to inadvertently target situations of **legitimate** company operation making it difficult to form a conclusive judgement as to the legitimacy of historical and future payments of fully franked dividends by Australian companies.

Tax laws should **not** be allowed to change retrospectively when Australians have **budgeted for** and **paid their lawful tax assessment based on existing tax law in place.**

Whilst we appreciate Treasury is trying to deal with situations involving tax avoidance and 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 queries in relation to the above.

Yours sincerely,

**Peter J & Louise Gersch**