Submission from the Leon and Mildred Morris Foundation

In the run up to the 2022 Election both the Leader of the Opposition and the Shadow Treasurer made it clear that the matter of Franking Credit changes was off limits even though Jim Chalmers made some comments about removing "rorts and waste" implemented by the then Government. Whatever he meant was not obvious or significant concern would have erupted as it did before the 2019 Election that saw the Liberals returned.

Jim Chalmers more substantial statement before the 2022 Election was *"We've made it clear that those policies around negative gearing and franking credits and the like, they won't be something that we'll be taking to the next election,"* (Mr Chalmers, Channel Nine interview). Given that the Franking Credit matter was a contributing factor to Labor losing the previous Election, it was clear that Labor were stating it would not tamper with the Franking Credit system.

Yet only months after the Election we find a proposal to do just that contained within "TREASURY LAWS AMENDMENT (MEASURES FOR A LATER SITTING) BILL 2022". While the Government is running the argument that it is just closing a loophole it is actually breaking a clear promise made to the Australian business community.

It should be noted

1. There is *still* a lack of appreciation that millions of Australians through direct or indirect exposure (via Superannuation or Charitable benefit) to Franking Credits rely on these credits to help their savings and be less reliant on the public purse.

2. Franking Credits belong to the holder of various institutional shares and units as a refund of tax paid on their behalf and is to stop an individual person or other legal holders of shares and units being taxed twice or losing tax paid if the entity is tax exempt.

3. There is nothing illegal in the processes of borrowing to release accumulated Franking Credits. There is no dispute that the entities involved can issue a Franking credit. The dispute is about how those Credits can be released to share and unit holders. Can borrowing be used? It is legal and accepted.

4. In the case of this Foundation restrictions on the availability of Franking Credits will cause a restriction in the support of approved educational and religious purposes that benefit community well being.

5. The idea that any amendment of whatever status could be *backdated is morally and ethically offensive and betrays the good faith of Government and the community in planning affairs along established principles.* There is a statement 1.53 in the paper released i.e. "The substantive amendments made by Schedule # apply to distributions made on or after 12 pm, by legal time in the Australian Capital Territory, on 19 December 2016. [Schedule #, item 3(1)]. It is unacceptable to resurrect this idea based on statements made six or more years ago.

6. Decisions in our Foundation have been made based upon current tax laws. The belief of the Foundation is that to now be penalised is just unfair. This is particularly relevant where the receipt of Franking Credits form part of the investment and allocation strategy.

7. Retrospectivity is a nightmare scenario for a fund like ours that has already donated money to approved outside causes.

In summary the Government should walk back from this regressive proposal and honour the systems in place with respect to Share and Unit dividends and taxation credits. Otherwise it, the Prime Minister and the Treasurer lose corporate and personal moral respect. Should the Government push ahead, and the Foundation does not believe it should do so, there are certainly no grounds for retrospectivity.

Revd. Neil Bach
Chair
Mr Fraser Holt
Secretary
4th October 2022