

Originally sent to 'frankeddistconsult@treasury.gov.au'

I write to voice my concerns and objections to the proposed retrospective changes to the law on franking credits.

On the question of the abolition of franking credits associated with off-market buybacks, and specifically on making changes to the law, and enforcing it **retrospectively**:

Many investors would have sold shares into the buybacks at a huge discount to the then market price on the understanding that they would be entitled to the franking credits attached to the buyback. Participation in the buybacks would have been done legally, in good faith, not only on the factual advice of the company undertaking the buyback, but on the paid for advice by financial advisers based on the then current legislation. Furthermore, it would have been done with the tacit (if not explicit) approval of the ATO itself. There is no tax loophole being exploited here, nor is there any illegal activity taking place.

Were the proposed abolition of the franking credits legislation to be made retrospective, investors will be hit by a "double whammy", because they would have sold into the buyback at a SIGNIFICANT LOSS (as explained above), and subsequently denied the promised and agreed franking credits, by being hit with a massive tax bill. This is grossly unfair and sinister in its intent, especially for small to moderate SMSF investors who are at the mercy of the markets, and who rely on a stable financial framework for their pension income.

More broadly, it also brings into question whether financial decisions of investors can be made with any certainty when the rules which govern finance and SMSF investing are not only constantly being changed, but are being changed retrospectively. It serves only to erode confidence in the financial system as a whole.

I cannot comment on the specifics of franking credits associated with capital raisings, but the my objection to the principle of changing and enforcing the rules retrospectively remains the same.

Don Pharoah