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Dear Director

On behalf of The Tax Institute, thank you for the opportunity to make a submission to the Treasury in respect of its consultation regarding the expansion of Australia’s tax treaty network. We would greatly appreciate your flexibility and understanding in accepting our brief comments below after the deadline.

In recent times there has been significant confusion regarding the interaction between State and Territory taxes and Australia’s treaty obligations. We note that the *Treasury Laws Amendment (Foreign Investment) Act 2024* (Cth) (the **Act**) was recently passed with the intention of clarifying that all taxes, other than Income taxes and fringe benefit taxes, take priority over treaty obligations. However, feedback from our members expresses indicates concerns over whether it is appropriate to unilaterally amend obligations under existing treaties. Some members have also raised concerns regarding the constitutionality of the Act.

We consider that if the Government intends for Australian State and Territory legislation to prevail over treaty obligations, this should be explicitly stated in the body of the relevant treaty. Doing so will remove potential confusion regarding a taxpayer’s obligations and ensure that the other contracting state to the treaty clearly understands Australia’s intended position.

Please reach out if you would like to discuss this issue further.

Kind regards

Julie

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