

Senate Standing Committee on Economics
ANSWERS TO QUESTIONS ON NOTICE
Treasury Portfolio

Inquiry into Treasury Laws Amendment (2023 Measures No. 1) Bill 2023

Division: Tax Analysis Division
Topic: Costing assumptions
Reference: Spoken (p. 62)
Senator: Andrew Bragg

Question:

Senator BRAGG: So how much confidence do you have? Given all of your own evidence today—that you're using data from a period which is not relevant—how confident are you that that data that you've put in the budget is reasonable and reliable? We've heard people say today that they thought that there could be billions of dollars in corporate tax revenue not paid because of this measure and the way it's drafted. So are you confident that that estimate is right?

Ms Brown: We are. Because we are in Canberra, I have been able to ask whether the first assistant secretary of the Tax Analysis Division could join me in my office. Her area does the costing. If you want to wait five or 10 minutes, she should be on her way shortly. But we are confident of the costing.

Senator BRAGG: So you're confident of the costing. Do you have a view about the evidence given to the committee today about the much larger numbers of corporate tax revenue that have been asserted and may not be paid as a result of the quite broad approach here?

Ms Brown: Unfortunately, because we are in the middle of preparing a budget, I have not been able to follow the hearings today.

Senator BRAGG: That's fair enough. I won't detain you any further. I might ask you to take on notice and provide a response to the proposition that this is a much broader measure than you are arguing would yield \$10 million a year. I'd also ask you to take on notice the assumptions, noting your initial explanation about the PBO, because it's just not clear to me how tax secrecy, as I understand that principle, applies in the case of a costing like this.

Answer:

- The measure, as announced in the 2016-17 Mid-Year Economic and Fiscal Outlook, was to take effect from 12:00pm (AEDT) on 19 December 2016.
- When costed in 2016-17, Treasury estimates drew from ATO estimates of annual value of franked distributions funded by capital raisings (that is, the conduct relevant to the legislation), the average tax rates faced by shareholders receiving franked distributions and the average characteristics of share registers. Treasury assumes that the ATO estimates are reflective of future patterns.
 - The ATO estimates were based on observed conduct, the data about which is protected taxpayer data. The protected taxpayer data was provided to the Treasury under an exception to the confidentiality of taxpayer information provisions in subsection 355-65(4) in Schedule 1 to the Taxation Administration Act 1953. The on-disclosure of protected taxpayer information by data recipients is strictly controlled by the Taxation Administration Act 1953.

- This confidential taxpayer data was the basis of the estimated gain to revenue of \$10 million per year. This revenue gain arises from the imputation system operating as intended in the absence of contrived arrangements.
- Treasury estimated the revenue impact of preventing the relevant conduct by:
 - : using the ATO estimates of the franking credits issued under these arrangements to derive the associated dividend distributions,
 - : allocating these to different types of shareholders based on ATO estimates of the average characteristics of share registers, and
 - : using the ATO's estimates of the relevant shareholders' average tax rates to calculate the impact on Government tax receipts from preventing these contrived arrangements.
- Australian citizens and businesses provide confidential information to the Australian Government on the basis the Australian Government will respect the laws under which that information has been collected. Australian citizens and businesses also expect that the Government will take all necessary steps to protect their information and maintain that confidentiality consistent with those laws. Given the vital importance to ensuring Australians continued confidence in the Australian tax system, it has been the longstanding practice of successive governments not to disclose protected taxpayer information except in the most exceptional of circumstances and as authorised by law.
- The costing was updated in late 2022 to reflect the revised start date of 15 September 2022.
 - There has been minimal activity associated with franked distributions funded by capital raising observed by the ATO since the measure's announcement in 2016. This is consistent with taxpayers changing behaviour in response to the retrospective start date as announced in the 2016-17 MYEFO.
 - As a result, Treasury estimated that the change in start date had no impact on revenue but would continue to protect future revenue at risk if the government did not legislate this measure.