

## Senate Standing Committee on Economics

### ANSWERS TO QUESTIONS ON NOTICE

#### Treasury Portfolio

#### Additional Estimates

16 February 2012

**Question No:** AET 19

**Topic:** TPG – private equity firms accessing tax structures

**Hansard Page:** 91

**Senator CAMERON:** .... Is it true, as suggested in the *Sydney Morning Herald*, that private equity firms have accessed these tax structures, enabling them to pay little or no tax anywhere, that are not available to more conventionally structured companies operating in Australia?

**Answer:**

Private equity funds undertaking cross-border investments often utilise low tax and lightly regulated jurisdictions, such as the Cayman Islands and Luxembourg, to facilitate an 'easy' flow of funds. Generally, these jurisdictions are outside the international tax treaty network.

Prior to the issue of the private equity-related tax determinations, non-resident funds investing in Australia also tended to locate holding companies in a treaty country such as the Netherlands. It is understood that one of the aims of these structures was to minimise taxes paid in the home jurisdictions of the private equity funds, their holding companies and the 'target' companies.

In Taxation Determination TD 2010/20 *Income tax: treaty shopping - can Part IVA of the Income Tax Assessment Act 1936 apply to arrangements designed to alter the intended effect of Australia's International Tax Agreements network?*, the Commissioner states his view that Australia's general anti-avoidance rules would apply to 'treaty shopping' arrangements entered into for the purpose of gaining an exemption from Australian tax.