



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



HOUSE OF REPRESENTATIVES

NEW BUSINESS TAX SYSTEM (INCOME TAX RATES) BILL (No. 1) 1999

NEW BUSINESS TAX SYSTEM (CAPITAL ALLOWANCES) BILL 1999

NEW BUSINESS TAX SYSTEM (INTEGRITY AND OTHER MEASURES) BILL 1999

NEW BUSINESS TAX SYSTEM (FORMER SUBSIDIARY TAX IMPOSITION) BILL 1999

Second Reading

SPEECH

Wednesday, 24 November 1999

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Speaker	Cox, David, MP	Question No.	

Mr COX (Kingston) (1.47 pm)—Today in my contribution to the debate on the package of new business tax system bills, I want to talk about how and whether these business tax measures are going to be funded. Once again the Howard government is asking the Labor Party to pass a major set of tax reforms without putting all the promised components into the package. The essential components that are missing with business tax reform are those that are designed to deal with tax evasion and avoidance. The community should be concerned about this. Several generations of Liberal politicians have shown little propensity to deal with tax avoidance and evasion. In the 1970s, the Fraser government, with the same John Winston Howard as Treasurer who is today the Prime Minister, dragged its feet for years before acting on the infamous bottom-of-the-harbour schemes. They were not avoidance. They were a clear case of evasion that ultimately ended in prosecutions, yet the Liberal Party was reluctant to do anything about them.

At the time Labor took office in 1983, almost the only industry that was booming was tax avoidance. There were enough schemes and angles that any Australian who was fortunate enough to be outside the PAYE system and able to arrange their own tax affairs could make optional the payment of all or a major part of their tax. When in 1985 the Labor government held a tax summit and produced a white paper introducing comprehensive tax reform to put integrity back into the tax system, the Liberal Party opposed it tooth and nail. The same John Winston Howard, who is today Prime Minister, was the prominent leader of that opposition. The Liberals, under both Howard and other leaders, opposed almost every modification to the tax system for the next decade.

It is obvious to anyone with a serious interest in tax policy that there is scope for tax avoidance and evasion using trust structures. Throughout 1994 and 1995, the previous Labor government pressed Treasury for advice on the extent of the problem and possible remedies. Nothing was forthcoming until 9 November 1995 when the Australian Taxation Office advised that they had uncovered a significant problem using multiple trust structures. They had found that large numbers of seemingly unrelated trusts were, in fact, related, and a range of techniques were being employed by high wealth individuals to reduce tax liabilities to low or negligible levels. They found that at least \$800 million a year was at stake from as few as 80 high wealth individuals.

Treasury and the tax office worked on the issue over the next three months, eventually advising the Treasurer that it would be appropriate to make a public announcement that the government would act to end these practices. That announcement was made on 11 February 1996. On 29 January 1996, the Secretary to the Treasury and the Commissioner of Taxation had been instructed as a matter of urgency to develop a legislative response to cover income from the 1996-97 financial year. The reason Labor announced the measures during an election campaign was that it was seeking a mandate to deal with this area of tax avoidance and evasion.

Despite a briefing from the tax commissioner, the Liberal response was sceptical. They really did not believe that there was that sort of level of evasion going on. They did, for the benefit of the media, suggest that if there was any evasion going on, they would if they got into government take some action to deal with it. If the Howard government had any interest in the fairness and integrity of the Australian taxation system, it would have legislated to put an end to this abuse in its first year of office.

Two weeks before the 1998 election, when it needed to fund the tax cuts contained in its ANTS package and when it knew Labor would raise this issue, it came out with a plan to tax trusts as companies. It claimed significant revenue increases from a package of measures it called 'consistent treatment of entities'. The positive budgetary impact was \$1.67 billion in 2000-01—the measures now put off until 2001-02—declining to \$650 million in 2002-03.

Yet we did not see those bills when the government introduced the necessary legislation for the GST. We were then told that the government would produce its solution to this problem in the Ralph Review of Business Taxation. Now we have the business tax legislation before us but no legislation on trusts. That has been put off until stage 2 of the business tax reforms.

The remedies on trusts were clearly set out in the ANTS package by the Treasurer. Labor wanted them implemented as quickly as possible. It was not a matter of any significant conflict between the parties, at least not as far as Labor was concerned. The policy which was clear enough to be included in the government's election policy became too difficult for it.

Why was this the case? It was because it was causing very great conflict within the coalition. Successive National Party leaders—Fischer and Anderson—have waged a war of resistance against it within the government. More ominously, so too has the Prime Minister's cabinet secretary, Senator Heffernan. Even the Prime Minister has himself undermined confidence that he will ever act against the abuse of trusts. On 30 September 1997, the *Financial Review* reported that:

The Prime Minister ruled out an attack on the abuse of trusts for taxation purposes—on the spurious grounds that such a move would hurt small business.

The Prime Minister made a personal explanation in the House the same day saying:

At no stage have I said that my government would never take action against the abuse of trusts. We will always take action against abuses within the tax system.

But when, Prime Minister? When? On 24 February 1998, the Treasurer was reported in the *Herald-Sun* announcing that family and company trusts should be taxed at the same rate as company profits as part of the government's crackdown on loopholes. The *Australian Financial Review* quoted him on the same day saying:

In an ideal tax system, taxes would relate to the economic activity that has been carried on rather than the legal vehicle which houses that activity.

The Prime Minister and the Treasurer are very adept on this issue. They say they will act, but to date they have done nothing. Any move to stop tax evasion and avoidance always meets resistance; someone will try to characterise the measure as draconian or claim their activities are legitimate or essential.

According to the *Australian Financial Review* on 30 September 1998, the coalition's policy was being undermined by the Leader of the National Party even before election day with his letter of 22 September 1998 in political doublespeak to the Australian Cane Farmers Association. It said:

I can assure you that, whilst the National Party is committed to stopping any practice of rorts through FBT or trusts, it will take all necessary action to ensure that genuine use of distributions of capital from family trusts to beneficiaries will not be subject to fringe benefits tax.

This contradicted the government's policy which said FBT would be 'extended to benefits in excess of \$1,000 a year provided by companies to their shareholders or by trustees to trust beneficiaries where the benefits were not taxed currently'.

On 25 May 1999 the *Sydney Morning Herald* reported the National Party concerns that the review of business taxation proposals would reintroduce death duties on family farms by cracking down on discretionary family trusts and that it would be given a sympathetic hearing amongst coalition parliamentarians. The report said that it was understood that cabinet secretary Senator Bill Heffernan was investigating the matter further following a presentation from Queensland solicitors Cleary and Hoare representing more than 200 farmers.

The National Party was apparently hoping that the review of business taxation would not pursue proposals to tax trusts as companies. On 24 May Glen Milne reported in the *Australian* that the then Deputy Prime Minister, Tim Fischer, had said, 'We'll kill this in cabinet.' In one notable *Sunday* program performance, Deputy Prime Minister Fischer even tried to characterise taxing trusts as companies as a death duty. His exact words were:

But at the end of the day are we about to retrospectively reintroduce death duties by some approach to trusts? No.

He was trying to get it killed off in the Ralph review. Ralph killed off his argument, I think, rather than him managing to have taxation of trusts killed off in the Ralph review. Despite him failing at that, at least for round 1, his successor, John Anderson, is still fighting on. It is now deferred to round 2, so we have not seen the legislation. On past experience, I am somewhat sceptical that we ever will.

David Stockman, the Director of the Office of Management and Budget in the Reagan Administration, set out to be the master of the fiscal universe in a manner not dissimilar to the way in which our present federal Treasurer tries to characterise himself. In Stockman's case, he was thwarted by two things: an agreement he made during the presidential transition period with defence secretary Casper Weinberger on increases in military spending; and becoming a prisoner of unrealistic economic growth and, therefore, revenue forecasts.

Stockman invented the magic asterisk which covered the difference between the budget he had, the one in deficit, and the budget he wanted, the one in balance. The legislation to deal with taxation avoidance and evasion using trusts has become Treasurer Costello's magic asterisk. First, when in opposition he said there was no need for legislation to deal with tax avoidance using trusts because he was sceptical that that was happening. Then in government, when he needed revenue to pay for the ANTS tax cuts, cracking down on trusts became a politically palatable way of paying for them. But then the internal heat became too great, and he put it off until the business tax review.

Now we are dealing with stage 1 of the business tax review, and he has not done it. It has been put off until the second stage. It is now not paying for the ANTS tax cuts, which the Prime Minister announced yesterday had weakened next year's bottom line by an additional \$1.8 billion. Now stopping avoidance and evasion using trusts is a major element of stage 2 of the business tax reforms and an essential element of paying for them. It is Costello's magic asterisk. I suppose Peter Costello shares some other views with David Stockman, most concerning amongst these is the belief that if you cut tax rates you increase tax revenues.

Yesterday's announcement by the Prime Minister of changes in his government's underlying fiscal position are a good indication that the tax changes have not strengthened the country's financial position. The question is whether the business tax changes which are before the House today will be paid for as the Treasurer claims by cracking down on tax avoidance and evasion using trusts or whether they will be paid for by further cuts to education, health and aged care.

What does Labor want from the business tax changes? An internationally competitive business taxation regime will result in higher levels of new investment in productive employment generating economic activity. What we want to know is that the measures that the government says will pay for that will do so. The Treasurer's problem is that he has been buying the tax reforms he wants by loosening fiscal policy: first, in bringing in the GST and providing large income tax cuts to the affluent; and, second, unless the additional measures in stage 2 are implemented, with the business tax changes.

Mr SPEAKER—Order! It being 2.00 p.m., the debate is interrupted in accordance with standing order 101A. The honourable member will have leave to continue his remarks when the debate is resumed.