



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



**HOUSE OF REPRESENTATIVES**

**BILLS**

**Tax Laws Amendment (2012 Measures  
No. 2) Bill 2012, Income Tax (Managed  
Investment Trust Withholding Tax)  
Amendment Bill 2012, Pay As You Go  
Withholding Non-compliance Tax Bill 2012**

**Second Reading**

**SPEECH**

**Wednesday, 20 June 2012**

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

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## SPEECH

<b>Date</b> Wednesday, 20 June 2012	<b>Source</b> House
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<b>Questioner</b>	<b>Responder</b>
<b>Speaker</b> Neumann, Shayne, MP	<b>Question No.</b>

**Mr NEUMANN** (Blair) (09:58): I speak in support of the Tax Laws Amendment (2012 Measures No. 2) Bill 2012, the Pay As You Go Withholding Non-compliance Tax Bill 2012 and the Income Tax (Managed Investment Trust Withholding Tax) Amendment Bill 2012. There we saw a pitiful and pathetic attempt by the shadow Treasurer to oppose these bills. Gough Whitlam, the former Labor Prime Minister, once said that only the impotent are pure. Well, I tell you what, there is not much purity on the other side when it comes to retrospectivity, as the Assistant Treasurer outlined yesterday in this place, with example after example of those opposite bringing in retrospective taxation legislation. So do not come into this place and lecture us about this, when we are fixing up a problem that has operated in one of these respects, on the shadow Treasurer's admission, since 2002. Who was in power in 2002, 2003, 2004, 2005, 2006 and for most of 2007? Those opposite were in power, and they did nothing about fixing up the problems, as we are doing here.

The shadow Treasurer said in relation to the passage of these particular bills that it involved billions and billions of dollars of taxpayers' funds. Have a look at the financial impact that the Tax Laws Amendment (2012 Measures No. 2) Bill is going to have. The revenue impact this year of schedule 1 of the bill will be \$32.5 million; the impact of schedule 2 will be \$66 million; the impact of schedule 3 will be nil; and the impact of schedule 4 will be \$65 million. So it will not be the billions and billions of dollars the shadow Treasurer referred to time and time again in his speech. He made exaggerated claim after exaggerated claim, and the same thing is happening all the time.

The shadow Treasurer talked about sovereign risk and said that the passage of these bills and the operation of this government present a sovereign risk to this country. He spoke as if there has been a great exodus of investment from this country, when in fact half a trillion dollars has been invested in the mining sector—in iron ore and in coal. You can see Australian ships carrying iron ore and coal lined up one after another in places such as the Pohang steelworks in South Korea. People came into this country and made massive investments notwithstanding the GFC. In 2009 and 2010 we saw massive foreign investment in this country. In 2009, there was an 11.1 per cent increase in foreign direct investment in Australia. This was followed by a 7.5 per cent increase—a total of \$474 billion—in 2010. Are all the foreign investors coming to this country stupid? No, they are not. Do they have economic idiocy running through their brains? No, they do not. But to believe the jeremiads from the shadow Treasurer about these bills is to believe that all these barons of capitalism and captains of industry—these mining companies and these superannuation funds trustees—are all dills. Why, if you believed a word that those opposite have said, would they invest in Australia? Why would all these shadow ministers and opposition backbenchers invest in these companies—as we have seen them do time and time again—if you believed a word of what the shadow Treasurer said was true? He is like a profit of doom. He is like some sort of Old Testament prophet—woe is me! I half expected sackcloth and ashes to be thrown around the chamber during the shadow Treasurer's speech! It was nonsense.

He said not a word about how schedule 1 of the bill protects the superannuation entitlements of workers and therefore the revenue base of this country by making directors liable to pay superannuation and preventing them getting credits through collapsing their companies and not paying the PAYG withholding obligations. There has been not a word from the architects and the apostles of Work Choices over there about protecting workers. There has not been a word about that from them, but that is what schedule 1 of the bill is all about—making sure that workers' superannuation entitlements and government revenue are protected. The shadow Treasurer is not worried about workers or the revenue base of the country. Those opposite are not interested in either putting in place deterrents to phoenix operations or strengthening and extending the director penalty regime—the DPR—to cover superannuation obligations. It currently only applies to PAYG withholding obligations. The shadow Treasurer said nothing about that—and just waxed on, way off beam.

These bills are important because we do not want people to fail in their obligations to workers, as has happened in the past. I am sure that as members of parliament all of us have had people come up to us at street stalls, at mobile offices and at electorate offices and have talked to us about fraudulent phoenix activity. I am sure that there is not a member of this chamber who has not had someone come and say to them: 'I'm working for a business, and

that business has failed. It's unable to pay its debts. I had superannuation, and they didn't pay the superannuation guarantee. They didn't meet their taxation obligations.'

We are making sure that these directors are more accountable for what they fail to do. We are making sure that there is a deterrent in place to prevent directors doing just this sort of thing. We are making sure make sure that they fulfil their obligations. We do not want taxation liabilities left unpaid, and that is why these bills are before this chamber. We do not want outstanding debts, and we want to make sure that these directors are liable. If the company is unable to meet its withholding amounts to the commissioner, the directors must place the company into voluntary administration or liquidation. Currently the Commissioner of Taxation has the ability to penalise the directors an amount equal to any PAYG withholding that has fallen overdue, but the director penalty regime in the Tax Laws Amendment (2012 Measures No. 2) Bill makes them personally liable.

We want to expand the responsibility and the scope of liability of the directors to cover unpaid superannuation guarantees to employees; remedy any possible escape from liability by preventing the discharge of the director's penalties when a company is placed in liquidation and PAYG or superannuation obligations remain outstanding; and impose obligations on directors and their associates to pay PAYG withholding non-compliance tax on withheld PAYG amounts that have not been paid to the commissioner and so forth. I did not hear much from the shadow Treasurer about those measures, which, in my view, are the principal reasons for bills such as those that are before the House.

We are committed to making sure that we protect workers' entitlements. This Labor government has a proud record of getting rid of pernicious and arbitrary legislation imposed on Australian workers by those opposite and of standing up to protect the revenue base of this country when those opposite set themselves against government on taxation issues, as they always seem to do. Schedule 2 of the Tax Laws Amendment (2012 Measures No. 2) Bill deals with problems that have been around for a while. It amends the taxation of financial arrangements—consolidation interaction provisions—in the Income Tax Assessment Act and balances these adjustments with other legislation to make sure that the tax treatment of financial arrangements is part of assets and liabilities in a merger or takeover, that it is consistent with the TOFA tax timing rules and that it takes into account changes in the value of financial arrangements or liabilities. This is important legislation. It amends legislation to make sure that our provisions are consistent, it makes sure that we have a good arrangement protecting the taxation bases. It ensures that taxation treatment of financial arrangements is consistent with the rules we have put in place in terms of timing and I support that.

Schedule 3 amends the Income Tax Assessment Act, modifying consolidation of tax cost setting rules so that the tax outcomes for consolidated groups are more consistent with the tax outcomes that arise when assets are acquired outside the consolidation arrangement. We amended the regime in relation to consolidation in 2010 as clarification. For some assets this reset tax costs from the original tax costs, in the case of consolidation of corporate arrangements. We want to make sure that it is used as a taxing point when it later arises for the purpose of the assets.

Shortly after that some unintended consequences arose. We have taken steps about that. The opposition say they are not supportive of what we are saying, but the Board of Taxation was asked to look at these arrangements and recommended that we conduct the kind of legislative amendments that are necessary. The board concluded the scope of the new rules was broader than was originally intended at the time of the announcement in 2005—when we were not in power—and could allow some consolidating groups to access deductions that were not available to other taxpayers outside the consolidation regime. So it is a longstanding problem that operated before we came into power. This is fixing up a mess that happened on the watch of the previous government as well.

I will let the minister talk about schedule 4 but I want to make a point about criticisms made of us that we reduced the withholding tax rate paid from managed investment trusts. We reduced the MIT payments to foreign residents from the rate of 30 per cent to 15 per cent. We did that as part of our election commitment back in 2007 when we went to the polls. That is consistent with other countries. The United States and the United Kingdom have 15 per cent. It was 30 per cent under the previous coalition government.

We are a government that is interested in foreign investment. We welcome foreign investment in this country. We think it is important. We do not have sufficient population or dollars and cents to develop our country—vast continent that it is—without foreign investment. We are a country that has grown by virtue of immigration and having people come to this place. They come as employees and employers. We welcome them when they come

to the rural, manufacturing and the mining sectors. We, on this side of the chamber, are people who believe both in free trade and fair trade and believe that the criticism of our support of foreign investment is unjustified and exaggerated. We saw that well and truly on display by the shadow Treasurer whose words were nonsensical and alarmist in this regard, once again so much like some sort of Old Testament prophet going around saying, 'We are all doomed and no-one should have any confidence,' and then having the temerity to criticise us when we say that they are putting a dampener on consumer and business confidence in this country. I support the legislation.