



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



HOUSE OF REPRESENTATIVES

BILLS

**Tax and Superannuation Laws
Amendment (Better Targeting the Income
Tax Transparency Laws) Bill 2015**

Second Reading

SPEECH

Monday, 14 September 2015

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

SPEECH

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Questioner
Speaker Leigh, Andrew, MP

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Dr LEIGH (Fraser) (15:55): Given other events that are occurring in the building, one might forgive those watching the House of Representatives today if in five minutes time they were to turn to a press conference by the now apparently former Minister for Communications as he announces that he will be challenging the Prime Minister for leadership. In all honesty, I do wish my colleagues on the other side of the House well through what I am sure will be a tumultuous time, those of us on this side of the House being, sadly, all too familiar with these states of affairs.

The Tax and Superannuation Laws Amendment (Better Targeting the Income Tax Transparency Laws) Bill 2015 takes transparency away from the tax system. Transparency matters. It is fundamental to ensuring that all taxpayers pay their fair share. Over a century ago, former Justice Louis Brandeis of the United States said:

Sunlight is said to be the best of disinfectants; electric light the most efficient policeman.

It is through high-quality transparency that we can ensure that firms and individuals pay their fair share of tax.

Labor will be opposing this bill because this bill would gut Australia's existing tax transparency laws that were put in place by Labor over the opposition of the coalition in 2013. We did that not from some prurient interest in the tax affairs of Australia's largest companies but in response to growing concern that some big firms are not paying their fair share of tax. Improving transparency is one way of tackling corporate tax avoidance.

We on this side of the House believe that tax transparency is a fundamental part of good multinational tax avoidance laws, and that is why last year I moved a private member's bill to retrospectively apply this transparency measure to the 2012-13 financial year. Labor's view was that transparency needed to start even sooner to make sure we could have a high-quality debate over multinational tax fairness. Unfortunately, the coalition opposed Labor's attempts to have transparency happen sooner.

Right now, as I understand it, the Australian Taxation Office has prepared the information that would allow them to publish information on the income tax paid by companies earning over \$100 million a year but they are holding off in following through on that legislative requirement because they are waiting on the outcome of a vote in this parliament. I would urge those crossbench senators still wavering on this point—and for anyone with influence with crossbench senators to tell them—not to gut tax transparency.

The laws currently apply to about 2,000 of Australia's biggest firms, but this government wants to carve out almost half of the companies affected and all of the private companies affected. These are extremely large firms. We are not talking about tiddlywink small businesses; we are talking about significant firms with major presence in the Australian market. They represent less than one per cent of all companies doing business in this country. Labor believes it is appropriate to have tax transparency for our biggest firms and that you should not be able to shield yourself from tax transparency by staying private rather than being public. Labor believes that the threshold should be a revenue threshold, an income threshold, and not whether you are private or public.

It is deeply disappointing that this is the first major piece of tax legislation the government has introduced this year, and, while the Treasurer is talking a big game about minimising multinational tax avoidance, what he has been doing has exactly the opposite effect. When he is outside this House he says he really cares about multinational tax avoidance, but when he is in here he has voted against tax transparency. He voted against Labor's package under Wayne Swan and David Bradbury in 2013 to make multinationals pay their fair share, and now he is moving to gut tax transparency. It is a real case of 'Watch what I do, not what I say.' When we brought forward that bill in 2013, we did so guided by work from the OECD which suggested that Australia's transfer-pricing rules and its anti-avoidance provisions needed to be tightened up to move with some of the sharp accounting practices that some of the world's largest firms were engaged in. David Bradbury won an award that year for being one of the world's 50 most significant tax reformers. That tax reform award was a credit to the work that David Bradbury, along with the member for Lilley, Wayne Swan, had done to make sure that Australia's tax

laws were up to the minute. We did that alongside the transparency measures because we know that, as Louis Brandeis pointed out, sunlight and reform go together.

I recently submitted a freedom-of-information request to find out just how many people had written to the Treasurer and his offsiders calling for these transparency laws to be changed. 'How many Australians,' I wondered, 'want tax transparency gutted?' See if you can guess how many pensioners and parents, how many community groups and how many small businesses wanted tax transparency to be changed. The answer: zero. Not a single Australian submission has called for the gutting of tax transparency. So the question has to be asked: is this a serious change, a necessary change, or is it the kind of idea that only comes up when you get together with your mates over the second glass of wine at the Melbourne Club? This is not serious reform in the interests of small businesses, pensioners and families; this is hiding from scrutiny the tax affairs of some of Australia's largest firms.

In trying to sell this as something other than shielding their mates from public scrutiny, the Abbott government have cycled through a series of arguments. Let us take a moment to run through the various arguments they have put up in the public domain. Liberal ministers first suggested that we needed to roll back tax transparency because it presented a security risk to the owners of big firms. They dropped that argument pretty quickly when the Treasury, the Australian Taxation Office, the Attorney-General's Department and the Australian Federal Police all said they had given no such advice that tax transparency generated a security risk for the individuals involved in managing large firms. Next the government suggested that tax secrecy was fundamental to the integrity of our system. They said that such laws reveal too much information about companies. Some ministers cited the example of Japan, which scaled back its own tax transparency laws for privacy reasons a few years ago.

I agree that confidentiality is an important principle for individual taxpayers and for many businesses. But you have to balance privacy with the public interest. If you are turning over \$100 million a year, you are among the most successful firms in Australia. So there is a legitimate public interest in knowing whether firms like these are paying their fair share. A recent Senate inquiry into multinational tax avoidance heard evidence about some companies paying effective tax rates of two per cent or less. These laws make public basic details about the total income, taxable income and tax paid by big firms so that we can better understand the contribution they are really making to Australia.

The Japanese case is a false flag. Where our laws apply to companies earning over \$100 million a year, the Japanese threshold was set much, much lower. In today's money it was the equivalent of a threshold of \$435,000. That is a very different ruling—to require publication of tax payable by firms that turn over in excess of \$435,000 a year. It meant that, while the Australian law captures about 2,000 firms, the Japanese law as originally drafted applied to over 84,000 companies as well as up to 180,000 individual taxpayers. Given that the Japanese threshold was 200 times lower than Australia's, it is pretty disingenuous to suggest that an adjustment to the Japanese threshold somehow suggests that Australia too should adjust its threshold.

Most recently the government has raised the spectre of big supermarkets like Coles and Woolworths squeezing their suppliers in business negotiations if they are able to find out the total income and tax paid by a firm. But does anyone really believe that these large firms do not already have access to detailed financial information about the firms they buy from? I can look up one of several dozen online business databases right now and tell you the annual revenue of dozens of Australian food manufacturers. I would be willing to wager that the big supermarkets have access to far better sources of industry information than I do. If you want to go from income and tax to profits, you have to make some very strong assumptions about deductions. For example, you have to make assumptions about the age of the plant and therefore the eligible depreciation. You could guess at profit from knowing total income and tax paid, but you would be wrong.

The real reason for the roll-back slipped out a few weeks ago, when one of the junior ministers in the Abbott government—as it now is—said that he was worried about unleashing the 'politics of envy' if Australians had access to more information about big companies. And what the member for Kooyong presumably meant when he talked about the 'politics of envy' was that some Australians might be envious of how little tax some of these firms really pay. Some of those who are suffering under the government's cuts might also envy the way the Abbott government always seems to prioritise billionaires over battlers.

Tax transparency matters because, without it, we have no way of knowing if big companies are paying their fair share. There are plenty of big firms that pay their fair share, and their contribution deserves acknowledgement.

But, more importantly, it is clear that some firms do not. When companies are paying tax at a fraction of the standard rate, Australians should ask why. At a time when the government is wanting to slug low- and middle-income Australians with a 15 per cent GST, we should look closely at whether all taxpayers are making their fair contribution.

We will not be able to do that if this government gets its way on replacing transparency with secrecy. The consequence is that some companies will be able to get away with ducking their taxes. Every single dollar that gets sent offshore or minimised with a handy loophole is another dollar that cannot be spent on things that matter—things like hospitals, schools and a liveable pension, which have been under sustained attack from the government's budget cuts.

If the government had its priorities right, it would be delivering policies that stop companies shirking their tax. It would be building on the good work engaged in by the member for Lilley, who is in the chamber, and his then Assistant Treasurer, David Bradbury, on multinational tax avoidance. Those were important reforms for bolstering the Australian tax system, for broadening the base with the possibility that we might ultimately be able to lower the rate.

Labor's multinational tax package was produced in the first half of the parliamentary term. It adds \$7.2 billion to the budget bottom lines over the course of the next decade, but the Treasurer does not want a bar of it. He has had the option on the table since Labor announced our package in March. We are happy to sit down with his officials and work through how he can implement it. I agree: it is a great Labor idea, and it is there to be stolen if the government is willing to step up to the plate on multinational tax avoidance.

I do not know why this government is too stubborn to acknowledge a good tax idea when it sees it, but we do know that the issues that Labor's package goes to are important ones. We know that some big companies are transferring money into their Australian arms and dressing it up as a loan when it is really shifting money from one pocket to the other. We know that the problem of using debt to shift profits is a serious one. That is why Labor is proposing moving from the current system, which allows firms to pick their favourite debt deduction rule, to getting rid of the two debt deduction rules that lack economic sense and sticking with the one that does have economic sense: the worldwide gearing ratio. That would allow firms to claim for their Australian operation the average amount of debt they owe to banks around the world. If your multinational group owes a lot to the banks, it can claim a lot back in tax deductions. If it does not owe the banks a cent and instead is just engaging in internal loans, it cannot claim subsidies from the Australian taxpayer—those subsidies which are underpinned by all Australian taxpayers.

The current tax transparency laws, which the Australian Taxation Office will hopefully soon begin to implement, help us hold firms accountable. They help us policymakers and the broader community see where there are problems that need fixing to create a fairer tax system. When organisations such as United Voice and the Tax Justice Network—people like Mark Zirnsak—bring out reports which outline how much tax has been paid by multinationals, based on the publicly available data, then we see members of the government say: 'Oh, you can't trust that. That's based on imperfect information.' But, when Labor try to make sure that we get good information out in the public domain, the government say: 'Oh, no, you can't do that. We've got to stand on the side of secrecy.' They care far more for the feelings of big companies than they do for making sure that we have a strong tax system without loopholes.

The Abbott government should not want to be known as a government which stand up for the megarich against regular Australians. But, if they pursue this attempt to gut tax transparency laws, that is exactly what they will be doing: standing up for the secrecy of large firms against the public interest. I urge the government to withdraw this bill and to keep the current tax transparency laws in place. If they do not, we will fight them in the Senate and at every step of the way. We call on those community groups who care about multinational tax fairness and about tax transparency to join us in a conversation with Senate crossbenchers about blocking this bad bill. I move:

That all the words after "That" be omitted with a view to substituting the following words:

"the House declines to give the bill a second reading because tackling tax avoidance demands more transparency, not less."

The DEPUTY SPEAKER (Hon. BC Scott): Is the amendment seconded? The honourable member for Lilley is seconding the amendment?

Mr Swan: Yes, I am.

The DEPUTY SPEAKER: Thank you. The original question was that the bill be now read a second time. To this the honourable member for Fraser has moved as an amendment that all words after 'that' be omitted with a view to substituting other words. If it suits the House, I will state the question in the form 'that the amendment be agreed to'. The question now is that the amendment be agreed to.