



23 April 2024

Committee Secretary
Senate Standing Committees on Economics
PO Box 6100
Parliament House
Canberra ACT 2600

Via email: economics.sen@aph.gov.au

Dear Committee Secretary,

Treasury Laws Amendment (Delivering Better Financial Outcomes and Other Measures) Bill 2024

We are writing to you concerning the retrospective application of Part 2 of Schedule 3 to the *Treasury Laws Amendment (Delivering Better Financial Outcomes and Other Measures) Bill 2024* (Bill).

As we stated in our letter to Treasury (see **Attachment A** to this letter) during the consultation on the exposure draft of this measure, we understand that from time-to-time laws will become operative before they are passed by Parliament and in a sense, have retrospective application. This often happens when measures are tied to an announcement on Budget Night.

However, having legislation drafted in 2023, tabled in 2024, and operating with effect from 21 August 2013 sets a dangerous precedent. Retrospective law undermines the predictability of Australia's legal and tax system at a time when investment will be critical to Australia's economic prosperity and energy transition goals.

In our view, the operational date of Part 2 of Schedule 3 to the Bill should be no earlier than 9 May 2023 (2023-24 Budget Night).

Should you have any questions or if you wish to discuss this matter, please do not hesitate to me at sstaples@corptax.com.au or on 0403 152 157.

Yours sincerely,

Simon Staples
Assistant Director



9 February 2024

Mr Marty Robinson
First Assistant Secretary
Corporate and International Tax Division
The Treasury
Langton Crescent
Parkes ACT 2600

Dear Marty,

Retrospective application of taxation laws

We are writing to you in relation to the introduction of retrospective changes to legislation as contained in the *Treasury Laws Amendment (Measure for Consultation) Bill 2023* (Bill).

We acknowledge that from time to time laws will become operative before they are passed by Parliament and in a sense have retrospective application. This often happens with revenue measures tied to announcements on Budget Night.

However, in our view, having draft legislation in 2023 with application from 21 August 2013 (which is contrary to a Full Federal Court decision) sets a dangerous precedent and is contrary to the principles of fairness, certainty, and the rule of law. To suggest the proposed changes are needed to address previous ambiguity is not the point. Such changes undermine the predictability and stability of Australia's legal system and adds to perceptions of Australia having increased sovereign risk. In our view, the changes proposed should be operative from no earlier than 2023-24 Budget Night.

In relation to other technical aspects in the Bill, we understand the Australian Energy Producers and some impacted taxpayers have responded directly to you to address broader observations including the narrowing of the definition of exploration. We understand these submissions articulate why further consideration is needed on various technical aspects of the Bill. The CTA has nothing further to add.

Should you have any questions or if you wish to discuss this matter, please do not hesitate to Paul Suppree at psuppree@corptax.com.au or on 0408 185 050.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Michelle de Niese', followed by a period.

Michelle de Niese
Executive Director