

5 June 2008

TAX LAWS AMENDMENT (2008 MEASURES NO. 3)

BILL 2008

Second Reading

Mr BRADBURY (Lindsay) (12.43 p.m.)—I add my words of congratulations to the member for Stirling's departing staff member and I acknowledge the work of all staff of members of parliament. I know that they all contribute in a considerable way.

I would like to speak in support of the Tax Laws Amendment (2008 Measures No. 3) Bill 2008. As the member for Stirling indicated, there are four schedules to the bill. The first two of those schedules relate to complex matters of taxation law, the first being one of the most significant decisions that we have seen in recent time: the decision handed down by the High Court in relation to the McNeil case. I think it would be fair to say that the outcome of the McNeil case was something that was greeted with surprise throughout the tax fraternity. The tax treatment of sell-back rights in that particular case was treated by the High Court in a fashion that departed from what was the conventional orthodoxy in relation to tax treatment of rights issues.

This bill, and in particular schedule 1, attempts to restore to the position of the tax law that which was previously considered to be the case, in keeping with that conventional orthodoxy—which is that, where rights issues occur, the gains or losses are not brought to account instantaneously but rather will be recorded and brought to account through the capital gains tax provisions where those particular rights are held on capital account. This bill and this schedule seek to restore that position by ensuring that any of those gains would be treated as non-assessable, non-exempt income and, as result of that and the consequential amendments to the CGT provisions, those particular gains would not be treated as income at the time that the rights are granted but would ultimately be brought to account when a future CGT event occurred and a gain or loss was to be realised.

I think it is a sensible outcome. It is one, I acknowledge, that the member for Stirling and his predecessor from his side, the former Assistant Treasurer, has indicated is the right direction for this parliament to take. It is important that we take that direction with some urgency, because it must be said that there is a degree of uncertainty out there in the marketplace. In particular, there have been strong concerns expressed by many within the industry as to how this is impacting on many arrangements that might otherwise have already been put in place.

I would also like to comment on the issue of consultation because I know the member for Stirling was very critical of the consultation process that has occurred here. I would like to take the opportunity to commend the Assistant Treasurer on the work that he has done in the short time that he has been in that role to try and allow this parliament to move forward towards a much more sensible approach to consultation when it comes to taxation laws. The establishment of the Tax Design Review Panel I think is the first step in that process. I note that the deliberations of that panel will at some future point be reported back to the Assistant Treasurer. I know that, given his long and outstanding commitment to

consultation, he will take the findings and recommendations of that panel very seriously, and I am sure we will see him acting on those recommendations.

One point I would like to emphasise in the whole consultation debate—because it is critical not just in relation to this bill but more generally—is that consultation in relation to tax bills will always involve a delicate balancing act. On the one hand, where there is a need for urgent legislative reform and an urgent legislative response—and that is often the case, because sometimes court decisions can open a Pandora's box of uncertainty in the marketplace—there is a need to act urgently. But on the other hand there is a need to act more cautiously, in particular in consultation with industry professionals and those practitioners that have an interest in ensuring that the legislation that ultimately comes forward is not only workable but delivers on the intent of the parliament. So there is a balancing act and it is important that those competing objectives and interests are taken into account.

In relation to the issue of delay, as someone who previously was a practitioner in the area, I found the area of tax-exempt asset finance and the reforms that had been proposed by the former government quite extraordinary. This was an area which, in so many respects, would have been critical to facilitating and inspiring additional investment in infrastructure, but it was an area where the former government had really dropped the ball when it came to reform.

Interjection

Mr Bowen—Five years!

Continue

Mr BRADBURY—Five years, indeed, as the Assistant Treasurer has pointed out. It was a long time. I must say it would have had to have been one of the most exposed exposure drafts in the history of this place. It has been a long process. I think it is important that, when governments make announcements in relation to significant changes in the tax law, there is a swift process—albeit a process that does engage in the necessary consultation—by which the original announcement is then translated into laws so that tax practitioners and the marketplace can then arrange their affairs in accordance with those changes.

In relation to the other schedules in this bill, I note that schedule 2 seeks to make a significant reform which will overcome the outcome of the Federal Court decision in relation to that matter. Schedules 3 and 4 are matters that clearly are of a much more pressing and urgent nature in ensuring that the parliament deals with them promptly. I understand that the Assistant Treasurer will be looking to move an amendment to facilitate the progress of those particular elements of the bill so that there will be the opportunity for further consultation on those elements where that may of benefit and committees can go through that process in greater detail.

Schedules 3 and 4 correct anomalies in relation to the treatment of various payments. The intent of schedule 3 is to ensure that the tax treatment of rent assistance that is paid to Austudy recipients is exempt. That is an important change precipitated by the fact that rent assistance had been announced in recent times by the former government, and it is important to ensure that there is consistency in the treatment of those payments with similar payments to people in similar situations, such as Newstart allowance, youth allowance and Abstudy. It is really about ensuring that there is some consistency in the treatment of these matters. Schedule 4, the substance of which is in relation to the carer adjustment payment, seeks to ensure that payments of that nature are considered to be and treated as tax exempt

and to bring them into line with other similar payments that would otherwise be treated as being tax exempt so far as the taxation law is concerned.

I am very pleased to support the bill before the House. In particular, I think that it is a matter of some urgency that schedules 3 and 4 be dealt with. But schedules 1 and 2 I think really do evidence this government's intention to act upon previous announcements made and to ensure that taxpayers have some certainty in proceeding with their affairs, given that the courts have made various decisions that have created uncertainty in these areas.