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Dr Richard Grant
Acting Secretary
Senate Standing Committee on Economics, SG. 64
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Dear Dr Grant

SUBJECT: SUBMISSION ON THE SENATE INQUIRY INTO TAX LAWS AMENDMENT (2011 MEASURES NO.8) BILL 2011 AND THE PAY AS YOU GO WITHHOLDING NON-COMPLIANCE BILL 2011

CPA Australia represents the diverse interests of more than 132,000 members in 111 countries throughout the world. Our vision is to make CPA Australia the global accountancy designation for strategic business leaders.

Against this background we provide this submission concerning the Senate Economics Legislation Committee inquiry into whether Schedule 3 of Tax Laws Amendment (2011 Measures No. 8) Bill 2011 (TLAB No.8 (2011)) should be withdrawn pending further review and comment on the proposed amendments concerning director penalty provisions. As a corollary we understand that the accompanying Pay As You Go Withholding Non-Compliance Bill 2011 should be similarly withdrawn whilst this review is in process.

We note that the House of Representatives Standing Committee on Economics recommended that Schedule 3 of TLAB No.8 (2011) should be deleted from that amending Bill so that the other provisions in TLAB No.8 (2011) can be tabled and enacted. This, we fully concur with.

Given the above, CPA Australia is of the firm view that phoenix like activities signify a major abuse of the privileges of limited liability. Furthermore, the practice of non-remittances of taxes and other withholdings to fund a company's cash flow is a highly dangerous practice affecting the interests of a wide range of parties.

We therefore support the enactment of effective law and accompanying penalties in this area to deter unacceptable behaviour but are concerned that certain proposals contained in Schedule 3 may be so broad that they extend beyond those parties engaging in phoenix like activities. Furthermore, there arises likelihood of imposing an excessive compliance burden on company directors and officers who do not engage in such behaviour.

Accordingly, we endorse the views of the House of Representatives Standing Committee that Schedule 3 of TLAB No.8 (2011) should be deleted pending broader community consultation. CPA Australia would be pleased to actively participate in that process.

Yours sincerely

John Purcell CPA
Policy Adviser – ESG