

struck between taxpayers who have made every effort to comply with the prevailing law as at the time the agreement was entered into. They can expose taxpayers to penalties in circumstances where taxpayers could not possibly have taken steps at the earlier time to mitigate the potential for penalties. They may change the taxpayer's tax profile, which in turn can materially impact the financial viability of investment decisions and the pricing of those decisions, and they can increase Australia's level of perceived foreign risk. I think that the perception of sovereign risk these days, with this government, is no longer perceived but real and actual.

The coalition will seek to amend this bill to give prospective effect to the bill or to provisions in the bill only. If this amendment is unsuccessful, the bill will be opposed by the coalition, as we do not believe the government has made a strong enough public justification for the retrospective component and application in this bill. By way of background, transfer-pricing rules exist to ensure that taxation is collected on the contribution of profits from Australian operations to multinational companies to ensure that profits are not shifted between related parties across borders without appropriate taxation.

We have no issue with that, as I have already touched on, and the transfer-pricing rules contained in division 13 of the Income Tax Assessment Act deal with this. They are also incorporated in a number of international tax treaties which are incorporated into Australian law. The Commissioner of Taxation has considered these treaty transfer pricing rules contained in the treaties as an alternative basis for transfer-pricing adjustments in parallel with the relevant provisions of the Income Tax Assessment Act. In order to promote stability for business it is important that there be consistency of taxation and other regulatory impositions on business. In the bill the government provides no detail of the size of the retrospective tax impost, so how does business know what the impost on them is going to be? **How would we like it if we had been paying our bills or our mortgage or our tax—let us focus on the tax here—and the government decided to change the tax laws and say: 'We're going back to 2004. We want to audit all of your tax returns for the last eight years, and, as a consequence, you might have a large tax bill.'** That is exactly what is being proposed. **Imagine the outcry if that was done to ordinary Australian mums and dads. But it seems that it is okay to do it to multinational companies, which, for the last eight years have tried to do the right thing by the Australian tax law—and nobody has proved that over the last eight years they have done anything outside the law.** The government has just decided, on the basis of the decision in the court case, that it did not like the decision of the court so it will introduce a change to tax regulation to get the outcome it wants. As the member

for Wright quite rightly pointed out, this change—which the government wants to make through this bill—will contribute to the government coffers, but the government cannot tell us what the amount will be. Maybe it is an attempt to achieve the mythical \$1.5 billion surplus that I doubt we will see in September 2013.

The government claims that the change will have no impact on the budget, as it is a revenue protection measure. If the change is not going to have any impact on the budget, why does it need to be retrospective? Why can't it just be prospective, as proposed in the amendment put up by the coalition? The Assistant Treasurer's office is not even able to fully quantify the cost of not passing this bill, so it is another example of the government saying, 'We'll just put this out into the wind and see what happens.' The bill provides no certainty and no understanding of the difficulties faced by anyone who is affected by it. Unfortunately, that seems to be the mode of operation of this government: 'That's a good idea; let's float it out there and see what happens.' The question must be asked: why is the retrospectivity required when the government makes the claim that the bill will have no impact on the budget and that it is purely a revenue protection measure? Is it because of this government's prolific spending over the past 4½ years that it needs every little bit of revenue it can get from every corner of our economy to try to make ends meet and cover up its profligate waste of money?

The coalition will be moving an amendment to make this bill prospective rather than retrospective. This amendment will ensure that taxpayers will not be forced to retrospectively comply with a tax regime that did not exist at the time they made business and investment decisions. We cannot expect our business community to have confidence in our tax system and our regulatory system if governments are just going to change things at their whim and make the changes not only prospective and for the future but also retrospective and for the past by saying, 'Now you have to go back and fix this, because we decided that that is what we want.' That does not engender confidence. In particular, in a global marketplace it does not create confidence for foreign investors who want to invest in this nation. The government talks readily about the \$500 million pipeline of foreign investment that is supposedly coming over the next few years, but, if you were a foreign investor looking at this bill and thinking of investing \$100 million in a mining project, would you do it? You would not know what the position will be for your business in four or five years time and whether the government will make another decision in four or five years time which will affect what you have already done. This bill provides no confidence whatsoever to our business and trading community. I