

Submission No:138.....

Wilson, Frances (REPS)

From: john.markos@hicksons.com.au
Sent: Wednesday, 7 July 2004 3:03 PM
To: Committee, LACA (REPS)
Subject: Bankruptcy Legislation Amendment (Anti-Avoidance and Other Measures) Bill 2004

I wish to raise my objections and those of my clients to the draft Bankruptcy Legislation Amendment (Anti-Avoidance and Other Measures) Bill 2000. Frankly, is too wide in scope and retrospectivity. It will have a draconian effect that is clearly not within the original intention of the govt in moving down the path exposed by the investigations of the taxation commissioner.

The draft Bill applies to anyone - including small business, retirees, employees, company directors, financial planners, tradesmen, property owners (occupiers liability), the sick and the elderly.

The draft Bill is not limited to income tax liabilities - it applies to ANY liability.

The Bill is not limited to where bankruptcy is used by the bankrupt to avoid paying tax or any other liability. It applies where creditors force the person into bankruptcy.

With the statutory and judicial attack on limited liability companies, the draft Bill also applies to liabilities of a company passed on to directors.

It does not allow any process for review or defence - it is procedurally unfair.

In retrospectively enacting the changes the bankrupt and related persons will be denied the opportunity to properly document the transaction which might be under attack if this legislation is passed.

The general tenor of this legislation seems to follow the tax commissioner's pursuit of barristers and other recalcitrant (non) taxpayers. Why not just change the tax act instead and define the powers to embrace the normative or policy background which from part of the community's concerns?

John Markos
Partner
Hicksons
Lawyers

This e-mail, including any attachments, may contain personal, confidential or privileged information. If you are not the intended recipient please contact the sender immediately and delete all copies of this e-mail and attachments. If you are not the intended recipient, any reproduction,

dissemination or disclosure of any part of this e-mail or attachments is
unauthorised.