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The Secretary
Electoral Matters Committee
House of Representatives
P O Box 6021
Parliament House
Canberra
ACT 2600

Dear Sir/Madam

Tax Laws Amendment (2008 Measures No 1) Bill 2008

Tax deductibility of contributions and/or gifts to political parties, members and candidates

Professor Hayek argued that the power to tax by the state needs to '*be controlled and limited*'. Montesquieu (1845) in *The spirit of laws*, argued: "*There is nothing that wisdom and prudence should regulate more [in taxation] than the portion taken away from the subjects and the portion left to them*". As Salvian the Presbyter wrote in the 5th century as he described the plight of the common people:

"But what else can these wretched people wish for, they who suffer the incessant ... tax levies? To them there is always imminent a heavy and relentless proscription. They desert their homes They seek exile ... [for] the enemy is more lenient to them than the tax collectors This very tax levying, although harsh and inhuman, would nevertheless be less heavy and harsh if all would bear it equally taxation is made more shameful and burdensome because all do not bear the burden of all. They extort tribute from the poor man for the taxes of the rich, and the weaker carry the load for the stronger"

Kay and King (1983, p243) stated: "*It is true that some of the deficiencies we have noted could be ameliorated by further ad-hoc modifications of the [tax] shambles we have portrayed. It is certain, however, that these modifications would lead to still greater complexity in the tax system and to further abuses, anomalies, and loopholes, few of which will be anticipated*". Our current tax system encourages '*the avoidance of taxes*' and as John Maynard Keynes stated it "*is the only intellectual pursuit that carries any reward*".

Raby (1972, p11) described the tax laws and cases as:

"concepts of equity, objectives of national policy, and pressure from special-interest groups (including the administrators of the law itself), together with hundreds of thousands (perhaps millions) of administrative decisions, plus thousands of court decisions, have all been instrumental in twisting and shaping the income tax law into a highly complex labyrinth of rules, exceptions to the rules, exceptions to the exceptions, modifications of the exceptions to the exceptions, and so forth, ad infinitum, that we know today".

Caragata (1998, p28) entered a further issue into this argument:

"Even more complex are the proliferating tax laws. Hundreds of pages of new tax legislation are passed every year. Staying up with this avalanche of technical paper requires highly specialised skills that most taxpayers do not have. They feel overwhelmed by the tax system, and hence less inclined to challenge it. To develop a public voice on tax requires considerable skill and determination. It's uphill work and usually the difficulty in assembling and analysing the information is too hard. This also leads to tax reform fatigue".

Sir Henry Parnell's comments in *Financial Reform* (1830) *"the influence of taxation over public prosperity cannot be advantageously treated of in parts. To be properly understood and appreciated, it should be considered as a whole, and in a general point of view"*. James Carter, the President of the American Bar Association declared:

"In every community those who feel the burdens of taxation are naturally prone to relieve themselves" from their fiscal discomfort. "If one class struggles to throw the burden off its shoulders. If they succeed, of course it must fall upon others. They also, in their turn, labor to get rid of it, and finally the load falls upon those who will not, or cannot not, make a successful effort for relief". Carter ungraciously added that the "struggle" is a "one-sided" affair, "in which the rich only engage" – and "in which the poor will always go to the wall" (Eisenstein, 1961, p4).

Dr T. S. Adams, a prominent economist and a high official in the US Treasury stated after his experiences in Washington that:

"modern taxation or tax-making in its most characteristic aspects is a group contest in which powerful interests vigorously endeavour to rid themselves of present or proposed tax burdens. It is, first of all, a hard game in which he who trusts wholly to economics, reason, and justice, will in the end retire beaten and disillusioned. Class politics is of the essence of taxation" (Eisenstein, 1961, p4-5).

US Chief Justice Wendell Holmes viewed society as an aggregate of diverse interests busily competing for legislative dominion. The *"tacit assumption of the solidarity of the interests of society"*, he stated, is *"very common" but "false"*. Whatever groups possess *"the supreme power for the moment"* are *"certain to have interest inconsistent with others which have competed unsuccessfully. The more powerful interests must be more or less reflected in legislation"*, for legislation is a conventional mode of placing *"burdens which are disagreeable to them on the shoulders of somebody else"* (Eisenstein, 1961, p5).

The risk in taxation reform is that key issues in taxation philosophy and in moral sentiments can be misaligned due to political pressures of influential pressure groups who are seeking their own special interest. As Henry Adams (US President) stated *"in practical politics we need to ignore the facts"* or as Chris Evans suggests *"tax, we barely need reminding, is politics with a dollar sign in front"*.

In fact, the deductibility of such politic contributions and/or gifts achieving a 'tax deductibility' treatment in the first instance was reprehensibly a miscarriage of moral justice of the first order, as it gave some taxpayers an advantage over others and could potentially entice politicians to bend the legislative process to achieve the specific outcomes of influential and powerful interest groups – without ensuring adequate safeguards. There is nothing wrong with people or corporations or Trusts/Foundations giving donations to political parties, etc as long as they are (i) transparent, and (ii) legal. The problem here is that allowing tax deductibility for these donations is morally and socially wrong.

This Bill gives us the legislative members the opportunity to correct a fiduciary failure of a previous parliament; in essence to correct a moral stain. When John Maynard Keynes was asked about changing his mind he replied "*When the facts change, I change my opinion. What do you do?*"

In summary therefore, this section of the Bill in relation to 'deny a tax deduction for contributions to political parties, members and candidates' ***should be passed because it will:***

- Remove financial incentive via all taxpayers (i.e. tax deductibility), to influence politicians to vote or introduce legislation in their best interests
- Remove the financial advantage that some taxpayers will receive over others as they are financially in a position to make use of such a deduction clause
- Re-establish some of the philosophical and moral integrity of the equitable principles of our generally accepted tax canons (i.e. equitable, simplicity, efficiency, etc) – in this case removing 'self-interested groups' claiming a tax deduction when trying to influence the legislative chambers.

Yours sincerely

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Note: Reference list can be provided upon request