

13 July 2006

Mr Tony Smith MP
Chairman
Joint Committee on Public Accounts and Audit
PO Box 6021
Parliament House
CANBERRA ACT 2600

Email: jcpa@aph.gov.au

Dear Mr Smith,

Re: Inquiry reviewing certain taxation matters – supplementary submission

The National Institute of Accountants (NIA), a recognised professional accounting body representing over 14,000 accountants, many of whom work in the tax area of the profession, would like to make the following supplementary submission to the JCPAA inquiry in certain tax matters. We intended the below information to be tended as evidence at the above Inquiry's hearing, however the NIA is not able to attend such hearings and we beg the Joint Committee's indulgence in accepting this correspondence as a supplementary submission.

It has been brought our attention that in recent weeks a number of statements about the important role the professional bodies play in a well regulated accounting and tax profession. As a professional accounting body, the NIA welcomes these comments and I would like to take this opportunity to inform the Joint Committee what the NIA is doing to ensure that the accounting profession is well regulated.

As the Joint Committee would appreciate, because accountants are free to choose whether they are become members of a professional body, the ability of the bodies (who have no statutory authority) to regulate the activity of accountants is limited to members of our respective bodies. If people do become members, they are also free to leave the body at any time and continue practising as an accountant. This means that even where a professional body takes disciplinary action against a member, such action can at worst only result in that person losing their membership, not the ability to continue to practice as an accountant.

Having set out the limitations of our ability to act, the NIA takes very seriously our responsibility to our membership and the broader community that members uphold the highest possible professional and ethical standards. We do this in a number of ways, including:

- setting minimum benchmarks of ethical and professional behaviour that members must at least seek to meet;
- imposing minimum education requirements, so that employers, the public and other accountants can be assured of a level of knowledge when dealing with NIA members;

- enforcing professional and ethical standards through an independent investigations and disciplinary process;
- requiring all members to undertake at least 80 hours of continuous professional education over a two year period;
- requiring studies in ethics for all members who wish to progress past “associate” status; and
- requiring all members who gross more than \$10,000 per annum from offering their services to the public to hold a public practice certificate.

Such a certificate requires members to:

- hold professional indemnity insurance (with minimum cover of \$500,000 for each and every claim);
- attend a public practice orientation program, which includes teachings in ethics and practice management; and
- submit to a Public Practice Quality Assurance Review at least once every five year.

As a result of the recent promoter penalties legislation and other information received from the ATO, the NIA is adding to and revising a number of questions that form part of our Public Practice Quality Assurance Review process. We envisage these additional questions will help to ensure that we can better identify members undertaking high risk activity and those members who may be having trouble managing their practice. Such changes will also make it easier for members to identify such issues and where they can go for assistance.

The issues that are being added to the Public Practice Quality Assurance Review process are:

- improving the identification of best practice activity by our members. We are doing this by inserting questions from the Self-Assessment Guide developed by the ATO Lodgement Working Party into our review process;
- asking members if they are up to date with their personal income tax and activity statement lodgements obligations and whether they have outstanding debt to the ATO; and
- asking members whether they promote or on-sell tax schemes for which no product ruling exists (or if a product ruling does exist, whether the scheme is being implemented in a manner consistent with the product ruling). The review will include information on the Promoter Penalties regime.

We hope that adding these questions will better enable us to tailor our Review for the benefit of the member and their clients.

Part of the Review process is a requirement for the reviewer to report any issues to the member committee overseeing such reviews. Where the review identifies issues of a serious nature and the member has not taken the opportunity to rectify the issue to the satisfaction of the reviewer, the Committee will forward that member to the NIA’s investigations officer for possible disciplinary action.

Where a reviewer or the NIA itself becomes aware that there is a potential breach of the law, we require such information to be sent to the relevant regulator or enforcement agency. Regulators and enforcement agencies are better resourced and have the authority to act in such situations. It should be

noted that even if as a result of action by a regulator, a court finds a member not guilty, the NIA may still take disciplinary action against the member for potential breach of our ethical requirements.

In addition to these activities, the NIA is active in educating members in new legislation such as the promoter penalty regime through a number of mediums. We are also active in supporting the ATO promote issues of concern to members and the public, such as to watch out for “dodgy” tax schemes.

To assist us with enforcing our professional standards on members, we must be supported by the ATO. For instance, where the ATO has successfully prosecuted a tax agent for failing to lodge their income tax return or an activity statement, we seek the name of that agent so that we can also instigate our own action. The professional bodies have a very small fraction of the resources and authority of the ATO and other regulators and hence we need their support in our effort to maintain and enhance a well-regulated tax profession.

If you have any further queries on the above, please do not hesitate to contact me on (03) 8665 3114 or by fax on (03) 8665 3130 or by email on gavan.ord@nia.org.au .

Yours sincerely,

Gavan Ord
General Manager – Technical Policy