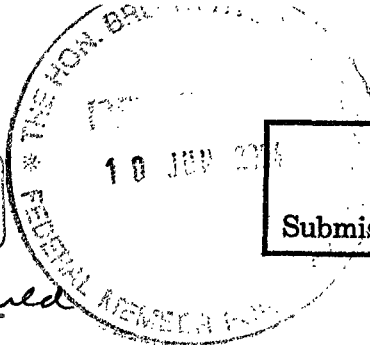


Mr Malcolm Tew  
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RECEIVED  
16 JUN 2004

BY: *Gillian Gould*



*Bankruptcy*  
Submission No: .....*28*.....

6th June 2004

Senator Bronwyn Bishop  
Chairperson  
House of Representatives Standing Committee on Legal and Constitutional Affairs  
Parliament House  
CANBERRA ACT 2600

Dear Senator,

**Bankruptcy Legislation Amendment (Anti Avoidance & Other Measures) Bill 2004**

I wish to register my deepest concern that the legislative changes referred to above could be enacted in a form represented by the recent Exposure Draft.

I am 52 years of age, in business as a Hotelier and I have always taken a prudent and conservative approach to the conduct of both my business career and my personal financial position.

Your proposed legislative changes effectively lift the corporate veil. Clause 49 of the Exposure Draft EM states “.....while asset protection arrangements are not uncommon the Government considers that they should not continue ...”

**There is absolutely no doubt that the corner stone of the private enterprise system is the survival of the availability of limited liability.**

My understanding of the law that was being considered, was that it was to be based on the joint task force report “Use of Bankruptcy & Family Law to Avoid Tax “

The draft of the proposed legislation makes no mention of tax avoidance and has the effect of being retrospective legislation that attacks the related assets of every person who becomes bankrupt for whatever reason.

The Attorney-General has apparently stated that professionals should have insurance cover and thus the legislation should not affect them. I would remind you of three issues

1. Not everyone is a professional person; the proposed law covers any person who becomes a bankrupt including all those in business taking risks the same as every other business person.
2. Insurance is not always available, and even if it is, there is no guarantee it will cover the risks encountered or be available. There is also the issue of HIH Insurance that failed not so long ago and left people with exposures.

This legislation does not just apply to professionals; it applies equally to any contractor conducting their business through a corporate entity.

**The simple solution to the mischief of those who brought about this change (the NSW Barristers) is to preclude them from practising their profession and pursue them for tax fraud, rather than to target those who have caused no mischief. Why has this not been addressed?**

Yours sincerely

A handwritten signature in black ink, appearing to read 'M Tew', with a stylized flourish above the 'T'.

Malcolm Tew

cc The Hon Phillip Ruddock MP  
Attorney General  
House of Representatives  
Parliament House  
CANBERRA ACT 2600