

21 August 2006

Mr Russell Chafer
Secretary
Joint Committee of Public Accounts and Audit
Parliament House
Canberra, ACT 2600

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Dear Mr Chafer

Supplementary submission regarding the review of a range of taxation administration issues in Australia

CPA Australia welcomes the opportunity to make the following supplementary submission to the Joint Committee of Public Accounts and Audit. (JCPAA).

The submission addresses the following three questions that members of the JCPAA requested our organisation to consider on 28 July 2006.

- certainty, and consideration that rulings be required to be legislative instruments and approved by parliament - would this be an added element of rigour and a constraint on discretion?
- comments on whether the Commissioner's powers need to be restrained in any particular way
- annual payments of PAYG, similar to GST.

We also have provided comments on a fourth issue - tax reform and fringe benefits tax - which has been part of other discussions during the JCPAA's ongoing inquiry.

1. Certainty, and consideration that rulings be required to be legislative instruments and approved by parliament

CPA Australia is supportive of the rulings regime. We remain unconvinced that requiring rulings to be legislative instruments would provide any improvement to the tax regime. Also as previously discussed, public rulings are binding on the Commissioner. While there may be rulings issued where we disagree with the Commissioner's interpretation, the rulings system remains an integral part of our self assessment system. We also acknowledge that the while Commissioner can withdraw a ruling or change it should his interpretation of the law change, this is not a frequent event, and in general where it has occurred the changes have not been in dispute.

The tax, accounting and legal professional bodies, amongst others, are also involved in the ongoing review of draft rulings and determinations. It is not the norm for there to be significant disagreement with the Commissioner's/ ATO's interpretation of the law.

That is not to say we always agree with the Commissioner's interpretation of the law in rulings. Where there is disagreement we seek to get the rulings modified/ changed/ withdrawn as the case may be.

2. Comments on whether the Commissioner's powers need to be restrained in any particular way

This question arose in the context of a discussion about mass marketed schemes (MMS) and 'whole of participant' type settlements. We are not convinced that there is any significant advantage in fettering the Commissioner's powers by either setting out in statute things that must be considered in coming to any decisions, or, where the tax office intends to take action that will apply to a class of taxpayers such as in the case of MMS, that they have a formal process that must be followed that is approved by another body independent of the tax office.

We also note the Commissioner already has in place a set of established guidelines relevant to settling cases, see the tax office's Code of Settlement Practice.

3. Annual payments of PAYG, similar to GST

Discussions with some of our members elicited little if any support for a once and for all payment arrangement for PAYG. If such a system was implemented, we suggest the eligibility threshold would need to be very low given the risk to the revenue. The current level of outstanding small business tax debt is evidence of the risk of such an annual system.

4. Tax reform, and fringe benefits tax

During the course of the JCPAA's current inquiry, changes to the fringe benefits tax (FBT) regime have been raised. We wish to clarify our organisation's approach to FBT reform, and tax reform generally. Currently CPA Australia's overall focus remains on broad personal tax reform. This includes the tightening up of, or removal of certain deductions as part of a package, including lower personal tax rates on a wider income tax base, rather than major FBT reform. Under the personal tax reform model we are currently researching jointly with Atax UNSW, most employee income tax returns would be vastly simplified or even removed.

While we are aware that the UK has a system where most individual tax returns have been abolished and fringe benefits are taxed in the hands of employees, we have not researched the UK experience and therefore have little knowledge, at this stage, as to how this works in practice. The reasons for this are twofold; - we see FBT reform as a lower priority than personal tax reform, and of course, the usual difficulties associated with obtaining detailed information on the various aspects of tax systems in other countries.

With respect to the simplification of the FBT rules by targeting the so-called major benefits, we believe that the two key issues are actually identifying what these are bearing in mind that experience demonstrates that loopholes in any tax legislation can be quickly exploited, and whether such an approach is consistent with the other two major objectives of tax policy being equity and neutrality.

Other relevant points include:

- Australia had a system for taxing fringe benefits in the hands of employees for many (70?) years, prior to the introduction of the current system, and it was not effective

- the better way to achieve a simpler tax system in Australia, in our view, is to address the main PTR and other related issues first and then tackle major FBT reform/simplification subsequently, if necessary
- the Ralph review did propose a major shift on FBT but the Treasurer ruled it out
- some minor short-term simplification of FBT can, of course, be done as is currently occurring as part of the 'red tape' reform exercise with CPA Australia's active participation and support.

If the committee has any queries please advise.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Paul Drum', written in a cursive style.

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