

JUL 2004

Submission No:133.....

Wilson, Frances (REPS)

From: Carlo Moretti [CMORETTI@pitcher-nsw.com.au]
Sent: Monday, 5 July 2004 9:15 PM
To: PRINCIPALS
Cc: MANAGERS; Committee, LACA (REPS)
Subject: DRAFT BANKRUPTCY LEGISLATION

Dear Colleagues and others

I bring to your attention an excellent article by Mr Robin Speed of Speed Stracey Lawyers about the far reaching implications of the Exposure Draft ("ED") Bankruptcy Legislation. The article appears in ATPs Weekly Tax Bulletin No 27 at paragraph 1090. I commend the article to you because it uses a simple set of circumstances to demonstrate how draconian and undemocratic the proposed legislation will be.

Some highlights of the ED include:-

1. It applies to anyone (the elderly, retirees, company directors, employees, tradesmen, property owners etc) and is not limited to income tax debts - it applies to ANY liability.
2. Applies where creditors force the person into bankruptcy
3. Applies to liabilities of a company passed on to directors
4. The bankrupt is presumed guilty unless proven innocent
5. The application of the ED is retrospective eg it makes no difference that the bankrupt transferred her interest in the family home to her spouse 40 years ago as an anniversary gift.
6. It makes no difference the bankrupt took all reasonable and practical steps to ensure all creditors were paid
7. It makes no difference the bankrupt was solvent at the time the gift was made, even if it was 10, 20 or 30 years ago!

I understand Pitcher Partners has made a number of submissions to the the House of Representatives Standing Committee on Legal and Constitutional Affairs and other representative bodies. The Cmtee is due to report by 16 July 2004. Unless there is widespread support for repealing or amending the draconian and undemocratic effects of the ED, the Bill will be passed.

As many people as possible should send a short email to Gillian Gould at laca.reps@aph.gov.au supprting the submission they favour by 9 July 2004.

I commend you to reject the ED and support the submissions made by Pitcher Partners and, Speed & Stracey Lawyers.

Yours sincerely

Carlo Moretti
Director
Pitcher Partners NSW Pty Limited
Level 3
60 Castlereagh Street
SYDNEY NSW 2000
AUSTRALIA
P: +61 2 9221 2099
F: +61 2 9223 1762
E: cmoretti@pitcher-nsw.com.au
W: www.pitcher.com.au

This e-mail is for its intended recipient only. If this e-mail has been sent to you in error, or contains privileged or confidential information, or the contact details of other persons, then you must not copy or

distribute this information and you must delete the e-mail and notify the sender. Any views expressed in this communication are those of the individual sender, except where the sender specifically states them to be the views of Pitcher Partners NSW Pty Limited. Except as required at law, Pitcher Partners NSW Pty Limited does not represent, warrant and/or guarantee that the integrity of this communication has been maintained nor that the communication is free of errors, virus, interception or interference. Liability limited by the Accountants Scheme, approved under the Professional Standards Act 1994 (NSW).