

TO: jcpa@aph.gov.au

19th February 2006.

Parliament of Australia
The Joint Committee of Public Accounts & Audits
Inquiry reviewing a range of taxation issues within Australia.

Dear Sir / Madam and Members of the Committee,

I have been practising as a tax agent for 7 -8 years, am a member of the NIA, NTAA and TIA.
I undergo heavy training as part of my profession.

Taxation Review - Part A

Areas:

- Compliance regime
- Rulings regime
- Penalties

Impact of self –assessment - interaction between self -assessment and complex legislation and rulings.

- Administration of taxation by the ATO.

Policy and administration matters

- Debt recovery of ATO/ tax debt

Issues:

- Self- assessment regime
- Compliance - complex legislation
- Integrity of compliance of ATO laws by taxpayers
- Integrity of compliance of ATO laws by agents

Issues:

1. People don't understand the law or do not want to understand / know

2. People accept risk of not doing the right thing deliberately so that can minimise their tax
3. Tax agents/accountants aid and abet this practice of risk tolerance by the tax payer
4. ATO Administration - eg tax agents board are known as a "toothless tiger" at preventing abuse of the Australian Tax laws by taxpayers via tax agents. This is widely known throughout the tax & accounting profession.
5. "system" needs to be developed urgently to overcome abuse of the self –assessment system in Australia

1) Why is self – assessment system flawed?

1. Majority of tax agents/ accountants are deliberately abusing the system
2. Online tax lodgement direct to ATO from taxpayer does not ensure integrity of compliance
3. Failure of understanding of ATO staff and policy decision makers to understand how the system actually operates and is abused (self – assessment)
4. Lack of auditors per head of population – not enough checks by ATO
5. Complexity of ATO laws allow clients/taxpayers to find reasons when caught
6. ATO Rulings are not law
7. Penalties are not severe enough – rely on percentage of recklessness \$ amount
8. Accounting bodies disciplining processes do not include checks of accountants/tax agents integrity of compliance
9. Lack of education and training of registered tax agents that do not belong to an accounting body such as NIA, CPA, Chartered Accountants. Therefore not policed by ATO or anyone else
10. The existing system allows cheating to go undetected
11. Applications of cabbage patch accounting by tax agents an accountants – invent things to minimise clients taxation
12. Lawyers allowed to give advice but there are many in the system that should not be allowed because of lack of CPE hours and ongoing training
13. Tax franchises allowed to operate and have very little internal controls to ensure compliance of staff on those organisations – is/are poor
14. Same for lawyers that are practising as tax agents
15. Old school accountants/tax agents/lawyers are not keeping up to date properly with ATO laws and ATO rulings etc. ie: not doing required training
16. Address S251L "supervision" rule. This is inadequate legislation to ensure integrity of ATO laws in Australia
17. Bookkeepers are allowed to operate doing "mundane" tasks of an accountant
18. Bookkeepers not qualified and not trained to deal with 10,000 pages of income tax assessment act
19. Accounting bodies too soft on their members disciplinary process

Recommendations to increase compliance of ATO laws

1. Increase dollar amount of fines rather than a percentage
2. Harsher prison sentences for fraud omitted by tax agents and tax payers - as a deterrent
3. Set up larger unit by ATO to investigate tax agents compliance conduct.
4. Federal Government advertising awareness \$10 million to publicise honesty by taxpayer such as the Centrelink campaign – scare tactic – increases revenue

5. Tax rulings should become law/ ratified by parliament
6. Tax agents board human resources should be increased dramatically and to include item 3 (flaws of the system) -as above
7. Tax agents that are not members of an accounting body do not have set hours of structured CPE activity to abide by – this should be set into legislation – self – assessment of CPE hours should be part of the tax agent renewal process application of this should be checked by the board (tax agents)
8. Introduce legislation to prevent accountants applications of cabbage patch accounting to minimise taxpayers taxation liabilities – harsh penalties and prison sentences rather than fines and penalties
9. Introduce points system for tax agents similar to drivers licences demerit points in Australia by ATO tax agents board to deter behaviour
10. ATO staff to report known fraud and evasion dishonesty by agent to tax agents board if suspicion or proven guilty
11. Tax agent board to investigate this and follow up and take action against those proven guilty
12. Cull the number of registered tax agents in Australia similar to the recommendations of the Auditor General report ie eg. Agents that do not lodge more than 50 returns per year for example
13. Clean up fax franchises in Australia – training to increase minimum qualifications of staff to increase
14. Address “supervision” S251L , ITAA, rule
15. legislate definition of bookkeeper in ATO law. – ie. eg. Minimum Qualifications – advanced Diploma of Accounting and Taxation Administration to include those bookkeepers that work on an employee position and contractors
16. Ask educational institutions to adopt new courses for areas to cover item 15 (as in flaws of the system).
17. The tax agents board are supposed to be supported by the tax against integrity unit (?) - the tax agents integrity unit and the board need to be merged, and staff numbers dramatically increased. (I recommend that you recruit "retired from practice" - tax agents to assist the task),

Tax Debt problems by public

1. ATO too slow to re-act to client tax debt
2. Lack of procedures in place - why problem? = staff in ATO not trained? = procedures complicated? = staff lack in commitment?
companies are able to liquidate and public money goes uncollected

Recommendations

1. Put in place auto mechanisms in ATO so that reaction is quicker to ATO debt - use private debt collection specialists.

2. Introduce legislation to make company directors personally liable for ATO debt by ASIC - this area needs to be addresses urgently.

I am happy to attend the committee hearing and answer questions for the committee and give examples.

It is not fair to all Australians that the government's taxation system is not working it's best - it is our money - taxpayers money.
It needs to be cleaned up.

Regards,

Ian McKenzie
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Registered Tax Agent