

Submission No:

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SUBMISSION TO JOINT COMMITTEE OF PUBLIC ACCOUNTS AND AUDIT -
PARLIAMENT HOUSE CANBERRA ACT 2600

By email – jcpa@aph.gov.au

Dear Sir,

RE: Rosa Legislation

Our company's involvement in Employee Benefit Arrangements (EBA) was premised on an advance opinion from the ATO held by our advisors. Our financial advisor and accountant had satisfied themselves that this long held opinion sanctioning our participation was in order. We proceeded to then obtain remuneration advice letters to establish what our non-arms length employees were truly worth and implemented appropriate remuneration packages for them which included their participation and other staff in EBA structures.

In each of the years of our participation we recorded the payments as remuneration costs and lodged the returns accordingly which were accepted under self assessment conditions by the ATO.

Today the ATO encourages taxpayers to seek advice and if appropriate a ruling on any such issues and this is what we did via our professionals who vetted the very existence of an ATO advance opinion held by our advisors and vouched its validity in the circumstances of our participation.

Our company has not settled with the ATO despite the ATO's numerous overtures to settle because they have failed to apply a consistent settlement practice with companies whom we have known having settled on better terms than we are being offered – where is the fairness that the Inspector General of Taxation sought in his dealings on this issue with the ATO.

Our company, like many others has been a victim of retrospectivity which has now caused the government to initiate changes in law for the protection of future taxpayers – what about the victims, we are left in no mans land. Several of our associate companies have gone to the wall (liquidated) because of this retrospective stance by the ATO. Their actions have caused many other companies apart from ours the loss of jobs, asset worth, employee health and in some cases death of participating employees. The issuing of multiple assessments had participants amassing levels due to the ATO up to ten times the level of the actual participating sums. What a disgrace that any creditor let alone the ATO can take such a scatter gun approach. Every company and every participant has their "breaking point" and the ATO did their best to find it.

When large companies initiate their scams the ATO appears to go soft, yet when a company participates in an EBA to a level of say \$50,000 the full forces of the ATO are let loose. What a joke, but the trouble is the ATO are not joking, far from it.

Penalties and interest charged by the ATO are manifestly to do with wrong doing. Our company has done nothing wrong, it participated because the ATO said so. Now the ATO says to us don't rely on anything they say whether verbal or in writing. We should not be charged any penalties or interest because we did nothing wrong or we thought so at the time.

Now we're told we have done wrong and we are penalised for doing so – rough justice by any standards.

It must be remembered that the ATO handed out many (up to sixty we're told) rulings and opinions on this EBA matter all of which were favourable to the numerous participants who acted in good faith.

The multiple assessments, referred to earlier, were an attempt by the ATO to harass participants into submission. Is this what the Government of Australia wants from its debt collector – I don't think so. Without the total support of all S.M.E. to abide by tax law the government would be bankrupted. Is it going to come to this or is the government going to implement fairness in its approach to all taxpayers. Your committee needs to look hard at what the ATO has done and is still doing and judge its actions accordingly and we need to believe you will deliver justice to all participants who followed the path that the ATO provided on sixty separate occasions. We remind you we committed no wrong doing and shouldn't be penalised in any way whatsoever for having proceeded as we did.

We await your findings with optimism that governments deliver justice not injustice when administering the tax laws of Australia via the ATO.

Yours faithfully,

R.W. SCOTT
DIRECTOR
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