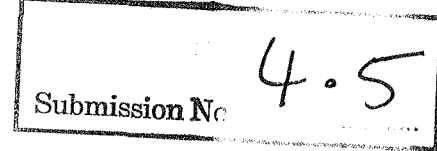


95 Waller Place
Campbell ACT 2612
3 July 2007

Committee Secretary
Joint Committee of Public Accounts and Audit
Department of the House of Representatives
Parliament House
Canberra ACT 2600



by Email jcpa@aph.gov.au

Dear Secretary

Re: **Inquiry reviewing a range of taxation issues within Australia**

I made several submissions to Committee regarding inconsistent administrative practices and a blatant disregard of ATO policy. I last wrote to the Committee on 5 January 2007, pointing out that the Commissioner refuses to acknowledge my representations and to clarify his policy in reading the provisions of Section 50(a) into the interpretation 51(1).

Another example has now arisen where the Commissioner has taken the opposite interpretation applied to me with that applied to two other taxpayers in relation to disposal of jointly owned shares and I draw your attention to Johnston v FC of T (Administrative Appeals Tribunal).

In that case two brothers owned shares in public companies jointly and decided to register each of their 50% ownership of the shares in their own right. The brothers considered as they individually held ownership to the same extent after the re arrangement of their affairs there had been no disposal for capital gains tax purposes.

The Commissioner challenged their approach and maintained there had been a disposal and they were subject to capital gains tax on the profit maintaining there had been a change in beneficial ownership. In effect from say owning 200 shares jointly they each became the owners of 100 shares so each could own and act on their individual interests autonomously.

In the audit of my case in which I drew several examples of blatant inconsistencies in the manner applied the income law to me, imposing penalty and general interest charges.

Like the Johnsons my husband and I owned 900 shares jointly in public companies. It was decided by us that I would take over the ownership of the jointly owned shares that were trading at a value below our purchase price and realized the capital loss which each of us then claimed 50% of the loss against some realized capital profits.

The Commissioner allowed the loss to my husband and disallowed my share of the loss on the grounds that there had been no beneficial change in interest on the shares I held jointly versus when I became the owner of those shares in my own right.

The transfer of ownership was lodged with those public companies and our joint names were taken off the ownership register and I was then listed as the sole owner in 100% of the transferred shares. Stamp duty was paid on transfer of the total 900 shares.

The scenario is no different to the Johnson case, and as well as being subjected to CGT, on assessment I was penalized 50% for being reckless and had GIC imposed. Really the Commissioner and those involved in seeing that the Commissioner is acting reasonably is in need of an urgent overhaul. From my perspective he certainly enjoys collecting tax.

I see little purpose in writing the Commissioner as he simply ignores the undertakings given in the Taxpayers' Charter to respond when I have pointed out the inconsistencies in his administrative approach. None the less I will try again and see if the Assistant Commissioner, Micro Enterprises and Individuals, Mr. Peter Nash has the integrity to respond.

Yours faithfully

W. D. Domjan

CC

Mr. David Vos, AM Inspector- General of Taxation

Mr. Damien Browne, Special Tax Adviser, Commonwealth Ombudsman

Mr Michael D'Ascenzo, Commissioner of Taxation

Mr. P. Nash, Assistant Commissioner, Micro Enterprises and Individuals