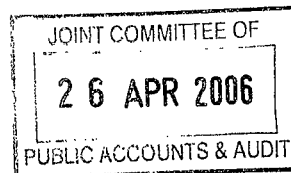


13 April 2006

Senator John Watson
PO Box 662
LAUNCESTON TAS 7250



Dear Senator Watson

Taxation - JPIC

I am writing to you in your capacity as a member of the Joint Parliamentary Investigating Committee. I want to bring to your attention a disturbing approach the Commissioner of Taxation is taking to a matter which affects thousands of taxpayers.

As background to this matter you will recall that about six years ago the ATO retrospectively amended hundreds of thousands of tax returns for about 45,000 investors in agricultural, and other tax effective investment projects. Many of these people accepted an invitation by the Commissioner to settle based on representations made by the Commissioner concerning an early test case selected by the Commissioner. This settlement deed took the form of an "agreement" which meant that the taxpayer gave up all their rights to take action against the Commissioner or benefit if the Commissioner was proved wrong in the courts. Several subsequent court cases have shown some of the Commissioner's material representations to be false and misleading.


My firm currently represents about 1,000 taxpayers who are in the process of seeking clarity from the courts in relation to their investments. In the process of representing our clients our firm became aware that the Commissioner had issued invalid assessments to many of our clients. We have finalised several cases where the Commissioner has admitted his mistake and refunded our clients their money paid under the settlement deed plus interest and costs.

A survey of our client base shows that about 50% of amended assessments are invalid. Given the size of our client base we believe this percentage maybe representative across all taxpayers in these projects. However the Commissioner is refusing to refund money to all those affected.

At our instigation Mr Vos has approached the Commissioner and has been informed that there are only a few taxpayers affected. This is quite clearly not the case. The Commissioner has apparently informed Mr Vos that taxpayers who received invalid assessments and settled are not entitled to a refund of moneys paid where, had the taxpayers drawn it to the attention of the Commissioner, the invalid assessments could have been rectified. These taxpayers were not at the time aware of the Commissioner's mistake, and in any event it should not be an obligation of taxpayers to identify and correct ATO mistakes.

I would be pleased to provide the Committee with any further information on this matter.

Yours faithfully


Frank Wilson
PP WILSON & ATKINSON