

13 February 2006

Dear Sir/Madam

I wish to make a submission to the inquiry regarding the taxation of the self assessment of mass marketed schemes which the ATO has now decided to reverse its decision to allow these and tax us and then add on penalties and interest retrospectively.

We had advice from our Tax agent and a QC before investing, that this was all legal and therefore we went ahead with the ESAP investment. We even had to arrange to make a company for it which was all legally drawn up at a cost by a lawyer.

Now it seems that the ATO has gone ahead and changed its mind and changed the rules. We were therefore issued with multiple assessments including FBT penalties, full GIC and penalties and shortfall tax.

It appears that there is a different rate of penalty and interest being applied and the ATO seems to be able to create a rate that suits itself from time to time. I feel that I have been harshly penalised for doing something that was perfectly OK until the ATO felt it was missing out on a lot of tax.

The 3 assessments that were originally issued were ridiculously high and would have sent the business broke, which has given me health problems in the form of depression and thus the business has missed out on a lot of work as I was unable to work full time.

I would like to see the ATO responsible for its actions and at least give us some guidelines as to what is legal and what is not, not to change the rules and then charge retrospectively to appease extensive criticism.

It would be nice to have a common standard of practise by the ATO for the level and application of rate of the GIC and shortfall tax change. The "double taxing" consequences arising from the intersection of fringe benefits tax and family tax benefits also needs re-examining. We would be most appreciative of any help you can give in bringing this to a closure for all concerned.

Yours faithfully,

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