

Incolink

The Redundancy Payment Central Fund Ltd

A.C.N. 007 133 833

14 May 2003

The Secretary
Economics Legislation Committee
Department of the Senate
Suite SG.64
Parliament House
CANBERRA ACT 2600

Dear Sir

Reference: **TAXATION LAWS AMENDMENT BILL (NO.4) 2003**

The Redundancy Payment Central Fund Ltd ("Incolink") calls for the urgent passage of the Taxation Laws Amendment Bill (No.4) 2003, as it is important to avoid "double taxation". However, we support the passage of the Bill if amended by the Senate with our proposed amendments (see numbered points below).

The highest priority is to ensure continuing FBT exemption for employer contributions to Incolink and other genuine worker entitlement funds for our core function: the provision of redundancy and sick leave payments to employees in the building and construction industries.

Payments by Incolink to employees are taxable in the hands of the employee (either as ETPs or as salary and wages). A changes in the ATO's interpretation of the law - which is itself the subject of legal challenge - would also have applied FBT to the employers' contributions from 1 April 2003 (an arbitrary date set by the ATO).

Technically, employers are already incurring FBT liability for employee contributions they have made since 1 April 2003. Without the exemption provided in the Bill, they will begin making FBT tax payments from 1 April 2004 - this would cost Victorian building and construction industry employers some \$72 million per annum.

Incolink believes that the Bill could be improved and strengthened by a number of minor and technical amendments that would aid in the administration of the law.


Incolink continues to believe that employer contributions for insurance for income protection and trauma are legitimate functions that should not be subject to FBT.

Incolink continues to believe that the application of FBT to the employment related training, counselling and support services it funds from surplus investment income is wrong and unjustified.

Therefore, Incolink seeks the following amendments:

1. The requirement to make the contribution under an industrial agreement being satisfied if the making of that contribution discharges the employer's obligations under an EBA (fully or partially) and/or an award relating to employment in relation to the leave entitlements of employees.
2. References to "employee" including apprentices.
3. Section 58PB(3) being deleted, or permitting the Commissioner to make the declaration on specified grounds only.
4. The funds constituting documents permitting payments from contributions (and consequently from income) to be made to:-
 - a) provide or contribute to employment related training counselling and support services to employees in respect of whom contributions are made and to employees engaged in the relevant industry;
 - b) meet or contribute to reasonable expenses (including premiums) related to insurances which are incurred or effected and are referable to the employment of the employee;
 - c) to make charitable donations to other organisations providing those sorts of services;
 - d) the funds constituting documents permitting payments from income to be made or applied to a presently entitled beneficiary (other than a contributor or person in respect of whom contributions are made) where that beneficiary satisfies the trustee or administrator of the fund on reasonable grounds that it will use that income for any one or more of the purposes permitted in the Bill (after amendment);
 - e) some amendment to (or explanation of S.58PB(5) to clarify its intended meaning.

Yours sincerely



JOHN GLASSON
Chief Executive Officer