

From: Mark Robinson [mailto:lmtrob@bigpond.com.au]
Sent: Friday, 20 May 2005 12:56 PM
To: Economics, Committee (SEN)
Subject: Inquiry into the Tax Laws Amendment (Improvements to Self Assessment) Bill (No. 1) 2005

Dear Senators,

I am writing in regard to the Senate Economics Legislation Committee inquiry in regard to the proposed amendments to improve the tax laws relating to self assessment.

I understand that it is the present intention of the Government that the proposed changes will not apply retrospectively therefore the current legislation will still apply in regard to any assessments amended by the ATO up to approximately 2009 in regard to an amendment to a 2003/3004 return.

Therefore the interest charges currently being imposed by the ATO and recognized by the Government as being unfair will still apply to amendments to assessments in respect to tax years prior to the introduction of the changes to the legislation.

I believe that it is unfair to introduce legislation to alleviate a recognized defect but still allow the ATO in the future to amend assessments and continue to apply the defective law.

I submit that the amendments should be made effective from the introduction of self assessment in 1995.

I have personally suffered considerable hardship as a result of amendments made to my 2000 & 2001 assessments in 2004.

The amendments relate to a decision by the ATO to disallow deductions in a retirement village investment despite the fact that at the time of my decision the investment was covered by a ruling issued by the ATO. The ATO subsequently withdrew the ruling and ultimately reassessed my income based on its decision to reverse its previous ruling.

In my submission it is impossible to organize my business and personal affairs if an investment made in good faith and in accordance with a product ruling by the ATO is subsequently disallowed some years later. A person should be able to make business and personal decisions relating to investment that are not adversely affected by the ATO's ability to alter its position some years later in order to disallow deductions and impose substantial interest penalties.

The interest charges are greater than the additional tax charged as a consequence of the amended assessment.

The amended assessments have placed considerable financial strain on me and my family. I have had to re-finance my home to make and part payment to the ATO in

regard to the amended assessment. Although I have lodged an objection to the amended assessments I have not received any response from the ATO.

I have the constant worry that the ATO may commence proceedings to recover the balance of the amended assessment despite the fact that I have lodged an objection and the ATO has not responded to same.

I am one of the persons affected by the application of the current law that has resulted in the recommendations for change by Treasury however the proposed amendments to the legislation will not assist me in my current dispute with the ATO.

After changes are made the system should be simpler and people can make decisions affecting their future with reasonable certainty as to the tax consequences of those decisions.

However this is not the case in regard to the past. In 2000 I believed that I was making a decision to invest in a development that had been set up in accordance with an ATO ruling. However when the ATO changed its position and amended my assessment I was obviously unable to go back and revisit the decision I made at that time. If I had the same ability to act retrospectively I would obviously have chosen a different form of investment at that time.

In the future I expect more certainty from the ATO and I do not anticipate ever being placed in this situation again.

I urge the Committee to recommend that the proposed changes be applied retrospectively.

Yours sincerely

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