

230 Church Road
Panton Hill, Vic.

24th May 2005

The Secretary
Senate Economics Legislation Committee
Suite SG.64
Parliament House
Canberra ACT 2600

Dear Sir/Madam

**Tax Laws Amendment (Improvements to Self Assessment)
Bill (No 1) 2005
Shortfall Interest Charge (Imposition) Bill 2005**

I am writing to you today about the law changes proposed in relation to the above which I believe you and your committee is going to look at.

I am a small business owner and have little if any understanding of matters financial, taxation or legal. I used to be a shearer and started a business from nothing with two friends and whilst we made a lot of mistakes given our lack of education, business knowledge and the like the business has kept going despite our inability to make much money. I am writing this letter with the help of a friend.

Given my lack of business and financial knowledge I always had to rely on other people and when we were urged to enter into an Australian Taxation Office approved scheme I accepted the advice of my financial advisor and accountants and went into it.

Some years later I heard that the ATO had changed its mind on the scheme I was in and I and the business had been penalised hundreds of thousand of dollars in interest and fines. Since then the business has paid to the ATO every cent that it can and me and my partners have borrowed against our houses to pay more money off the debt to the ATO.

And still the debt with the ATO remains as well as at the Bank.

It seems to me the system is wrong when the ATO can say something is OK one day then change its mind 3 to 4 years later and because it has changed its mind decide to penalise the people it gave the OK to in the first place by imposing high penalties and charging large amounts of interest at inflated and unrealistic interest rates. And this is where my problems are. If the law allows the ATO to change its mind then I as a taxpayer am unable to argue but I can argue that the interest charges and penalties are unfair.

Accepting the ATO turnaround, I can accept then that I might have to pay back the tax I claimed/ received in the meantime. I could even reluctantly accept that I might have to pay a minimal amount of interest on the amount owed but I cannot concede that I should have to pay a penalty plus interest for many years at 13%+

The latest interest rate I saw that I was being charged by the ATO was something around 13% and yet I am only paying around 8% for my borrowings from my own Bank. It is wrong that the ATO can charge such an inflated interest rate.

The ATO approved this scheme and I know this is fact and not a “ruse” put out by the scheme promoters. The ATO should say they “got it wrong” and charge only say half the interest rate (or at least market) and no penalties.

Now I understand that the Treasury and now the government appear to share my thoughts, hence the law is to be changed accordingly and that you and your committee are reviewing the proposed amendments. I also understand that Mr Costello is not backdating the legislation and the changes will only benefit people in like situations to me from the 2004/2005 tax year.

This means that I am one of the taxpayers whose change of mind and subsequent ill treatment by the ATO has caused the Treasury to recommend the law be changed for the better but I am prevented from getting the benefits of the new laws.

I can assure you that I never understood at all the scheme my business entered into despite the questions I would have asked at the time. I relied on my financial advisor and external accountant. And later I relied on my accountant to prepare the financials and tax returns which they did capably and in terms of Australian Taxation Laws. Nothing was hidden from the ATO. All the things we claimed were clearly in our tax returns. It wasn't like my business was hiding income or claiming non existent expenses.

My accountants clearly included the amounts the ATO said we could, as deductions and did so for 3 years before the ATO decided to disallow them and then never communicated to the taxpayers this advice nor drew up new assessments for 3 years

As I will never go into any sort of (tax advantageous) scheme again I will never be in the situation I am in now and therefore will never benefit from the new laws. But I should be entitled to benefit from the law changes NOW.

I am a victim of the ATO's harsh treatment of Taxpayers and probably the self assessment system itself and I strongly and respectfully request that you consider my thoughts here in your review and ask you recommend to the Government that the proposed tax law changes be retrospective to 1995.

Yours sincerely

Paul G Burke