

30 King St
Glen Iris, 3146

26 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 and the Shortfall Interest Charge Interest Charge (Imposition) Bill
2005**

Thank you for the opportunity to make a submission to this enquiry. It is a matter of intense interest to me as I have certainly been very affected by the defects that you have recognized exist in the self-assessment system.

The significant changes to the self assessment arrangements proposed by the package of bills only partially implement the recent Treasury *Review of Aspects of Income Tax Self Assessment* and I think they need to go further.

The proposed SIC instead of the punitive GIC is commendable – particularly in view of the fact that I am one of the people whose treatment caused Treasury to recommend the law be changed. What is worrying is that, if enacted in their current form, I am excluded from the benefits of the new laws. There have been a lot of changes to ATO processes since 2002 when I was retrospectively assessed for investments that were, at the time of investing, approved by the ATO. I deserve the protection of the proposed legislation more for the past where ATO processes were less transparent and when I was less knowledgeable of the mayhem and inequity that the Commissioner could cause retrospectively.

In the ATO reassessing my return some years after accepting my status, I had excessive GIC imposed upon me and have suffered loss and damage as a result. For example, although investments were made during my marriage in a tax effective manner, by the time the retrospective amendments disallowing the investments and imposing penalties and the GIC were made my marriage had broken down and there had been a final property settlement. I became responsible as a sole parent for all the additional tax imposed as GIC and suffered in terms of high stress and uncertain finances.

The ISA bill allows the Commissioner of Taxation to remit the SIC and if he or she doesn't, requires the Commissioner to provide reasons for rejecting a remission request. The Bill also enables a taxpayer to appeal against the Commissioner's decision. This is fair and should be equally applied to taxpayers who are still disadvantaged in the processes that have given rise to the GIC.

To date, the 'burden of proof' that they aren't 'tax cheats' lies with the taxpayer even though no public ruling system was in operation at the time of entering into the business investments and private rulings took at least 18 months to be given. It is fantastic that the bill removes the penalty for failing to follow a private ruling and requires the Commissioner to supply reasons for a penalty and why it is not remitted in full. It also clarifies when a statement by an entity about an income tax liability is reasonably arguable – please, please have these rules apply retrospectively, at least to the very group of people who gave rise to these changes being seen as fair and equitable.

It is currently proposed that the new laws will only apply to amendments made to returns for the 2004/05 financial year and beyond. But in respect of 2003/04 and earlier years the ATO will still be able until at least 2009 to amend returns and impose GIC under the old law at 12 to 13%. This seems unfair and against the purpose of the legislation.

Defects have been identified and the government is seeking to fix them for the future. Not addressing past, extremely damaging and punitive charges takes away any credibility that these changes are to ensure fair treatment. It is also of concern that because of the way the ATO can amend 4 years back, it will be able to keep applying the GIC on amendments made up until 2009.

Yours faithfully,

Jan Macpherson