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21 May 2004

The Review of Self Assessment
The Treasury
LANGTON CRESCENT ACT 2600
By e-mail: selfassessment@treasury.gov.au

Dear Sir/Madam

Review of Aspects of Income Tax Self Assessment

Housing Industry Association Ltd (HIA) is the peak industry association for businesses operating in the residential construction industry. From a nationwide perspective, this industry provides work for some 483,000 contractors.

HIA has not had a full opportunity to consider this matter and to obtain our member's formal and considered views. HIA reserves the right to make further submissions after obtaining our member's formal policy. Notwithstanding that I have not obtained a formal policy position on this significant issue, I consider that this submission accords with relevant current HIA policy.

In relation to the issues raised in the paper we make the following comments:

Chapter 2: Rulings and other Tax Office advice

HIA submits that the ATO is sufficiently accessible and there seems to be little evidence of excessive delays.

ATO's tax advice should continue to explain contending views of the law as well as detail the specific application of the law. More upfront interpretation coupled to an awareness campaign should enhance compliance.

With respect to issues raised about the operation of Part IVA, HIA submits that the ATO should indicate when Part IVA applies as a matter of course, rather than only on request. Such a move will enhance knowledge of anti-avoidance measures and encourage greater compliance.

Private Binding Rulings (PBR) are an excellent tool for tax-payers to obtain specific information about particular cases. The ATO should not be permitted to charge for PBR's and penalties should not be increased for non-compliance. The arbitrary application of penalties may not take into consideration minor variances from the details set down in the PBR. Furthermore, the taxpayer may not agree with the PBR and the PBR is not a binding precedent.



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Chapter 3: Review and amendment of assessments

HIA agrees with the suggestion that the limit for an amendment increasing the liability for a very small business should be reduced to 2 years.

A small business though should not be defined as one who has chosen to be a Simplified Tax System taxpayer. Rather, eligibility should be open to those micro-businesses who can elect to be an STS, whether that election has been made or not.

The only exemption from the 2 year arrangement should be those found guilty of fraud.

With respect to early notification for audit, HIA agrees that early notification would be beneficial. Nevertheless, HIA would support an exclusion from early notification where the audit is due to the ATO having a reasonable belief that the tax payer has committed an offence.

Chapter 4: Penalties

HIA suggests that the terms ‘reasonable care’ and ‘reasonably arguable position’ do not need clarification at this stage.

In relation to further guidance on grounds for remission of penalties, HIA submits that an information booklet or even amendment to the Taxpayer’s Charter could be considered.

We look forward to receiving details of the outcome of the review and to discussing any proposals that ay arise from the review. If you have concerns regarding the above, please contact the undersigned.

Yours sincerely
HOUSING INDUSTRY ASSOCIATION LIMITED

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