

Mr Isaac Gnieslaw  
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29th April 2009

AFTS Secretariat  
The Treasury  
Langton Crescent  
PARKES ACT 2600

Email to [AFTSubmissions@treasury.gov.au](mailto:AFTSubmissions@treasury.gov.au)

Dear Sir/Madam,

RE: SUBMISSION TO REVIEW PANEL

As a CPA who has run my accounting practice as a Sole Practitioner for 22 years specialising in lodgments of Individual Income Tax Returns, Business Activity Statements as well as Partnership, Trust and Company Taxation Returns, I feel I am extremely qualified to present this submission to your panel for serious consideration. Failure to adopt my recommendations will mean that tax administration in Australia will fall into anarchy due to the lack of supply of accountants in public practice to meet the demand for their services.

Therefore, I propose the following recommendations which will make compliance with our tax laws less complex, simpler and cheaper as follows:-

(a) Elimination of Individual Tax Returns

For most individuals, personal tax returns must be eliminated. At the moment, the two greatest works of fiction are the Bible and someone's tax return.

The majority of taxpayers on Salary and Wages have no other income and no deductions to claim. The Tax Office receives copies of Payment Summaries and actually publishes them so that Tax Agents can access these on the Tax Agents Portal and self preparers can access prefill reports when using E-Tax. If that is the case, why are Tax Returns necessary.

The result of not having tax returns is that there will be no work related deductions, concessional deductions or Tax Offsets.

All work related expenses should be reimbursed by the employer who will have a receipt to claim the GST input credit and on Income Tax.

The major benefit will be that the tax rates could be lowered by 5% to compensate for not having deductions and the savings in tax administration costs.

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Interest received from savings accounts, unfranked dividends and managed fund distributions could be subject to a resident withholding tax of say 15%. The government gets its tax when the income is paid and we don't have to worry about undeclared income because somebody has forgotten and there will be no need for an Income Matching Section in the Tax Office. Franked dividends could be tax free as the Imputation Credit covers the tax payable in most cases. This will make savings accounts a more viable investment option if saving for a home rather than risking the savings on the share market because it has a better return but subject to capital gains tax to be paid when the funds have been spent on the home. Not that we should encourage banks to be more profitable.

Taxpayers with rental properties and capital gains will still have to submit a schedule with their income which will be matched to the Tax Office records they have received from other sources.

Based on the information submitted, the Tax Office could issue a tax statement to the taxpayer with an assessment. If the taxpayer has additional information that will amend the tax statement, they will have to notify the tax office.

Neither refunds nor payments will be required if assessments have a range of plus or minus \$200.00. Balances will be carried forward to the following year.

Taxpayers who will still have to lodge a tax return will include anybody with an Australian Business Number (ABN). Watch all those ABNs get cancelled.

Otherwise, it should only be schedules to a tax return such as Rental Income, Capital gains tax, Foreign Income, etc that should be lodged.

Another benefit is that the now long suffering tax agents will be preparing tax returns for their business clients earlier and therefore the Tax Office will be getting their necessary tax information sooner.

#### (b) Residency

At the moment the Tax Act states as one of the conditions to be a resident of Australia for tax purposes is to reside in Australia for at least 183 days unless the Commissioner is satisfied your permanent place of abode is outside Australia. The tax rate for a non-resident is 29% and there was no reduction in the tax rate when GST was introduced or since.

There are a lot of people who visit Australia on a 12 month working holiday visa who, of course, stay for longer than 183 days. Many are now getting their visas extended because of the labour shortage in Australia. Many also return later on as a permanent resident because of work sponsorships or they have met someone.

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In theory, these people should be taxed as a non-resident paying a flat 29% tax but they are lodging their tax returns as if they are an Australian resident for tax purposes and large refunds are being issued. Some of that money is going overseas which is of no help to the Australian economy.

It would be clearer if the definition of residency was amended to 367 days resident in Australia without the Commissioner being satisfied that the taxpayer's permanent place of abode being outside Australia. The tax rate should also be lowered to 15% and this would allow for more spending to be done in Australia helping our economy. No tax return should be necessary. If a visa was extended past the 12 month period, the person could apply tax residency to be backdated to the time of arrival in Australia and receive a refund.

Anybody who is on a working holiday visa should be prevented from receiving an ABN as there is no guarantee that person will lodge a tax return and pay any taxes owing. It could also be seen as an easy way to evade tax.

### (c) Fringe Benefits Tax

If individual tax returns are to be eliminated, there must be changes to Fringe Benefits Tax to encourage employers to provide motor vehicle and reimburse expenses to their employees.

At the moment, many employers are paying their staff motor vehicle allowances because the paperwork in supplying the car is too onerous for them. The taxpayer then has to maintain a log book and keep receipts for their expenses and also risk a tax audit. With the elimination of tax returns, they would have no claim.

The Fringe Benefits Tax laws on Motor Vehicle Expenses should be changed as follows:-

- as long as the car does not cost more than a 6 cylinder Holden Commodore, e.g. \$40,000; and
- as long as a log book is maintained for 12 consecutive weeks; and
- as long as that log book shows that the vehicle is used at least for 90% business use;

no Fringe Benefits Tax should apply.

Motor Vehicles costing more than the regulated amount will still be subject to FBT irrespective of the log book percentage.

Also, to appease the environmentalists the statutory formula rates could be reversed to discourage driving and that could also encourage more log books to be used.

Amazingly, there is no known research of employers who calculate FBT on the Statutory Formula Method what they think their business use percentage is based on the number of kilometres the car has travelled.

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Fringe Benefits Tax exemption should be restored for in-house catering facilities whereby the employee salary sacrifices. The removal of the exemption is completely insane as follows:-

- assume an employee spends \$10.00 a day for 240 days at the in-house canteen which is salary sacrificed. At the moment the tax cost is  $\$2400 \times 31.5\% = \$756.00$ . The benefit is too small to show up as a Reportable Fringe Benefit and the employee is happy because he has a little tax break and feels looked after by his employer. However, if staff decide to bring their lunch from Home or go somewhere else to eat because it is cheaper, the canteen will make a loss and close down. As a result, unemployment goes up, Social Security Benefit payments go up, Income Tax collections go down, employees are unhappy and feel ripped off and, no doubt, the cost to the government will be more than the tax revenue foregone under the salary sacrifice arrangements.

#### (d) Capital Gains Tax

Capital Gains Tax needs to be amended to provide an incentive for long term investment against short term investment.

It seems wrong that Capital Gains Tax on the sale of an investment property held for 20 years is the same as that for shares held for 2 years which yielded the same profit.

There should be rollover relief into a superannuation fund similar to the small business concessions for capital gains held over 15 years. This will help our dwindling superannuation savings after the Global Financial Crises. The drop in the sharemarket will also see small capital gains being taxed although the increase was not greater than the Consumer Price Index for the period the asset was held. Indexation should be re-introduced so that only real capital gains after CPI is taken into account get taxed.

#### (e) Dividend Imputation

Keep it and at least make franked dividends tax free. Taxed has already been paid by the company paying the dividend.

#### (f) Research and Development

If Australia is to be the smart country, the government must provide generous Research & Development tax concessions and the framework to discourage our smartest and inventive people and companies emigrating.

Government departments e.g. CSIRO, do not have the resources or facilities or the people with the knowledge to counter act the effects of climate change, discover alternative sources of energy, best practice communications technology, medical advancements, etc. If staff members have the knowledge, they would be quickly head hunted by the entrepreneurs in the industries.

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To be a world leader in the above technologies, government have to provide the framework for our people and companies to operate within.

The most efficient way is for generous R&D tax concessions which must be simple to access and inexpensive to comply with.

After all, it is the shareholders of companies who take the risk in investing in these companies and then reap the rewards when the research and development is successful. The government will also benefit by collecting additional tax revenue.

#### (g) Private Health Insurance Rebate

This rebate must be maintained and it should automatically come off the premium paid to the Health Insurance Fund. It should not be claimed through the tax system.

Governments must realise that Private Hospitals are there to support Public Hospitals and if patients can afford top attend a Private Hospital for surgery, they must be encouraged to so.

If the rebate was withdrawn, the number of people dropping out of private Health Insurance will be enormous because they could not afford it.

This will put more pressure on the Public Hospital system which is not coping at the moment with the number of patients seeking treatment, its facilities are inadequate, there are insufficient resources and the debt levels of hospitals are too high leaving budgetary constraints.

Private Health Insurance companies are dumb by seeking regular contribution increases leading to more and more people dropping out of private health insurance. Of course it will be only healthy people who are not using their private health insurance that will drop out. Eventually, they will be a burden on the Public Hospital system. The government is even dumber by giving in to the Private Health Insurance demands.

#### (h) Alienation of Personal Services Income

If we can get the top personal marginal tax rate to align with the company tax rate we can get rid of this legislation and we will be better off.

Also, we could also have less contractors and more PAYG earners if only WorkCover, Payroll tax, various other entitlements and redundancy payments can be fixed up as well so they don't encourage employers to hire contractors but rather PAYG earners. They do the same job after all.

(i) Flow Through Profits

Shelve it, forget it, don't understand it and it won't work. Historical cost accounting is the only way as proven by history. Remember Current Cost Accounting? That died a mysterious death when it slowly drifted away.

(j) Maternity Leave

No, no, no ,no, no and no. If these proposals ever came in, business will only employ post menopausal women. We just cannot afford it.

(k) Education Tax Offset

With tax Agents having enough to cope with, we now have an Education Tax Offset which has to be substantiated. It would have been much simpler to administer the Education Tax Offset as a Family tax Benefit Part A supplement paid in February each year. The amounts payable of \$375.00 for Primary School Children and \$750.00 for Secondary School children should be lowered to \$250.00 and \$500.00 respectively without the need for substantiation.

(l) Seniors Health Card

From since I can remember the qualifying income for a Seniors Health Card has been \$50,000 or less for a single person and \$80,000 or less for a couple.

It is about time this was increased to \$60,000 and \$100,000 respectively.

(m) Centrelink

Centrelink are always sending out forms to their customers requesting taxable incomes on the most recent tax return lodged.

Centrelink should have the authority to approach the Tax Office directly for that information and if there is a discrepancy then notify the customer what they have determined. Recipients get very worried and distressed when they receive forms to complete from Centrelink and then annoy their accountant with it.

The Tax Office and Centrelink are always exchanging information if income disclosed on a tax return is too high for Centrelink Benefits to be paid or if benefits have not been included in a tax return.

The Tax Office should be using Centrelink offices as a tax office enquiry centre so that information can be exchanged when necessary.

#### (n) GST Thresholds

When the GST Registration threshold was recently increased from \$50,000 to \$75,000, taxpayers should have been afforded a once off opportunity of deregistering from GST without having to repay any GST on the value of their fixed assets when opting out.

There are still many entities earning under \$75,000 and even \$50,000 still registered for GST because they were registered earlier, yet new entities who elect not to register for GST have a commercial advantage by charging 10% less.

#### (o) GST on Food

GST on food should have been included from the beginning. To compensate, a \$14.00 per week tax cut and a \$14.00 a week increase in social security benefits should be awarded. The problem is that the Federal Government will have less revenue whilst the State Governments will have more revenue.

This will make compliance and paperwork simpler. We won't have to look at every receipt from a supermarket to determine the amount of GST on the docket. Sales won't have to be broken up into GST and non-GST sales. No confusion as to what has GST and what doesn't.

Also, by not having GST on food, the Government has missed the fifth most important household expenses after tobacco, alcohol, gambling and fuel.

#### (p) Monthly Business Activity Statement

Extend the due date from the 21st of the month to the 28th. There is just not enough time to get all the information together and lodge the form by the 21st. Most people are trying their best and should be rewarded for it.

#### (q) Credit Card Charges

From a government and the Tax Office which are obsessed with the cash economy, why on earth would you legislate so that merchants can charge extra when a customer pays on a credit card?

Surely, when a product is priced, the costs of running a business including the merchant fees are included in the pricing structure.

All these charges do is encourage the cash economy whereby the goods are sold, GST is not paid to the Tax Office and neither is any Income Tax.

Credit and EFTPOS transactions mean that the money is in the bank, therefore, GST and Income Tax gets paid. This should be encouraged and so should a cashless society.

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(r) 20% PAYG Instalment Reduction

The 20% PAYG Instalment Reduction announced by the Government in December 2008 was nothing short of a debacle.

Surely, the Government would have thought to check with the Tax Office when the Instalment Notices were to issue before making the announcement and not make the announcement after the notices had been generated.

At least then either the notices could have been held back and amended so that the correct instalment amount payable appeared on the notice and also save thousands of letters letter being sent out advising taxpayers of their new instalment amount, sometimes after the instalment was paid, or, the announcement should have applied to the March 2009 PAYG Instalments.

The Tax Office must be the Government Department that contributes most to global warming. With every debit assessment notice and Activity Statement sent there is always an envelope. Most people pay at the Post Office or over the internet whilst Activity Statements are lodged electronically. If a person really needs an envelope, they can buy one. It is tax deductible.

(s) \$900.00 Tax Bonus

This government must be the only government in history to dish out money in this fashion and some newly arrived migrants think that this is an annual event.

The workflow on Tax Agents who are forever trying to keep up to date with their lodgments has been nothing short of horrendous.

People have been jumping out of trees to lodge tax returns and they are the ones who have not lodged in years. Some have even thrown away their paperwork and expect us to request copies from the Tax Office.

This hand out must not happen again. If agents are late lodging clients' tax returns it is because we have been bombarded by the demand from existing and potential clients. Handouts like these just bring the greed out in people.

Most accountants would not be taking on new clients at the moment as we are overworked It is now 12.20am as I am typing away.

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I have had at least 400 phone calls, emails and drop ins from clients wanting to know “Will I get it?” “When will I get it?” “Where will it go to?” “I rang the Tax Office and they told it was being paid into your Trust Account!” “No, it won’t because I made sure it won’t and I override the Tax Office” is my reply. It is a total administrative disaster which wastes our time and would be worse if the Tax Office sent all the notices to the service address on the tax returns and the bonuses into accountants’ trust Accounts. What will I do with 1,000 letters and 100 Tax Bonuses in my Trust Account? Off to Majorca if that happened.

What Tax Agents now need is an urgent lodgment extension until 31 December 2009 for 2008 Income Tax Returns and \$900 Tax Bonuses to be paid to take the stress off the profession before there is a sharp reduction in numbers due to strokes, heart attacks, untreated cancer and psychiatric illnesses.

#### (t) Tax Evasion

I noticed in a lot of previous submissions that Australia should do something about Tax Havens and tax evasion using those havens. There are already laws which address that issue and that is why we have Operation Wickenby. It is not the Australian Governments duty to tell a tax haven jurisdiction to have an Income Tax.

However, I believe that there is a more blatant form of tax evasion going on in Australian and that is non-compliance.

There must be entities that are registered for GST who just have not lodged Business Activity Statements and Tax Returns since the inception of GST. Also, there may also be people who are operating under an ABN, not registered for GST and collecting Centrelink payments as well and not lodging a tax return.

These people are not being detected because they fallen out of the system until they start lodging again.

The Tax Office must research and investigate those entities and if there is a business being carried on, the tax office must prosecute and have the offenders convicted of tax offences.

Chances are, these entities have no assets and will go into receivership or bankruptcy and very little money will be recovered but the operators must be put out of business as they are operating under an unfair advantage.

#### (u) Tax Office Resources

The Tax Office is hopelessly under resourced. The Government must increase Tax office funding to increase staff levels in order to raise more revenue through audit activities.

My proposals above should also free up tax office staff from other duties and nobody should be retrenched. Just moved to other areas to support the additional audit activities and service the community better.

#### (v) Tax System Review Forum

I attended the Tax System Review Forum held in Melbourne and could not be helped but think the Australian tax Reform Group Inc hijacked the forum.

Although the reasoning that our tax system is too complex, expensive, and difficult to comply with is sound, the solution of a 1% transaction tax on banking transactions is completely preposterous.

This would definitely encourage a cash economy as we would all carry suitcases of cash around with us avoiding banks like a plague as we don't want to lose our 1% of deposits and withdrawals every time we make a transaction. Burglars and thieves will have a ball. I also noticed that none of their members were less than 75 years of age.

#### (w) New Zealand Tax System

Have a look at it. I believe it is the best in the world and it is working well for everybody. They have abolished individual tax returns such as the United Kingdom did many years ago. In fact, most countries don't have individual tax returns.

When the Kiwis come over to Australia and need to lodge a tax return, they are actually rolling around the floor in laughter at what Australian have to do to get a Tax Return prepared.

#### (x) Tax Amnesty

When all the above is done and accountants are complaining that they don't have enough work, then it is time to have a tax amnesty to get people back into the system although the \$900 Tax Bonus has gone some way to doing that. However, there are still a lot of people who think they owe money to the tax office and still have not lodged.

#### (y) Tax Agents

The average age of a Tax Agent is now 60 years and I am not even catching up to the average age. There are very few people registering to become Tax Agents because the tax laws are too complex and changes too frequently.

Already two generations, Generation Y and Generation Z, have been lost to the profession because they are our children and they have seen how hard and how late into the night (now 1.05am) and weekends we work. They don't want our lifestyle.

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Governments have failed to realise that every year a whole lot of school leavers go into the workforce and they will eventually need an accountant, but every year there are fewer accountants to service the demand.

Also, small practices are being sold to larger practices, not new entrants into the profession.

As a result, fees go up – supply and demand, and the biggest complaint I have had against other accountants are the fees. Some have been horrendous such as \$407 for an Individual Tax Return with very few claims and one month's rental income. Less than one hours work. I have even seen a tax return charge of \$275 for the inclusion of a Payment Summary with no other income and no deductions claimed.

Personally, as a tax Agent, I have to occasionally introduce myself to my wife and children. If I come home before 9.00pm, I get asked "What am I doing here?" Socialising with friends on the weekend is kept to a minimum because I am too tired.

The Tax Agents Portal uses up a lot of time and is there because the Tax Office is incapable of administering the Tax System so we have to do for them for free.

I have not had a decent holiday since 1999 due to the GST. If fact, I would be owe myself at least 12 months holiday pay. So much for work/life balance which the union movement strives for.

Our professional bodies don't even represent us in accounting practices any more. They are too obsessed with accountants in industry working for wages and expending into South East Asia. I read the previous submission from CPA Australia and it mentioned none of the above points although I emailed them with my thoughts.

The previous Liberal Government should be sued for false advertising. The GST was supposed to unchain everything. I hate that song now. Now, I am constantly chained to the desk with a computer on it. No wonder I am going blind.

I spend endless amounts of time on the Tax Agents Portal requesting remissions of failure To Lodge penalties and General Interest Charges because of the horrendous workload. I cannot always meet lodgment deadlines. This is even after I received a letter from Mr David Diment, Assistant Commissioner, tax Practitioner Group on 24 December 2002 that I have an exemplary lodgment pattern. My practice has grown even more since then. My lodgment pattern is still exemplary but would be even better if the above changes are effected. I admit that it could take 5 years and would need bi-partisan parliamentary support for it to happen as an election is due in 2010.

There has also been difficulty in getting good staff due to full employment and tax laws are too complex and change too frequently.

Summary

I have always thought that if we have Tax Agents, Income Tax Returns and a GST, only two out of three would survive.

At the moment, tax Agents are going and if all go, who will be preparing the work between the Taxpayer and the Tax Office. It just won't happen.

The solution rests with you. Thank you for this opportunity and if you wish to pick my brains about my submission, please contact me.

The time is now 1.40am and I am about to email this submission,

Yours faithfully,

ISAAC GNIESLAW CPA