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SUBMISSION – PAPER TO THE TREASURY

Review of Aspects of Income Tax Self Assessment

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SUBMISSION – PAPER TO THE TREASURY

Review of Aspects of Income Tax Self Assessment

1.0 Introduction

The purpose of this submission is to provide brief comments on the review of the income tax self assessment system.

1.1 Aim

The aim of this submission is to provide The Treasury opinions on some issues facing the current system of income tax self assessment which were raised in the discussion paper dated March 2004.

2.0 Specific Comments

The writer has identified the following concerns, which he believes the Treasury should consider. It must be noted this submission reflects the views of the writer only and may not correspond to the views held by Lowenstein Sharp on the subject matter.

2.1 **Should the amendment period for increasing/decreasing liability of an individual taxpayer not in business be reduced to say, two years? (Question 3.5 3.A & 3.I)**

It was suggested in the discussion paper that a reduction of the amendment period would reduce uncertainty and therefore costs for taxpayers. The discussion paper also canvassed the idea of reducing the amendment period for individuals who are not in business from the current four-year period to two.

The motive for the above initiative is that the Australian Tax Office “ATO” generally completed amendments for such taxpayers within two years. This two-year amendment period has already been adopted by the ATO for Shorter Period of Review (SPOR) taxpayers.

However, it is the writer’s experience, particularly in the formative years of his tax career, that individual tax returns do experience prior year amendments initiated by the same tax agent or where there was a change of tax agent, an amendment of tax returns lodged by former tax agents.

The reasons for such amendments are corrections to the tax returns of the taxpayers, particularly where there are decreasing adjustments. The fees derived by individual tax returns may be marginal, even in “straightforward” cases, as they can at instances, take a fair amount of time, depending on the form of documentation and preparation provided by the individual taxpayer in question. Accordingly, the fees (which are often based on hourly rates) that could potentially be charged by tax agents could restrict the level of attention provided to such taxpayers. This does impact the quality of the preparation of such individual tax returns, as they are often prepared by less senior/skilled employees who have lower hourly charge rate and then such returns are reviewed by more senior employees or the partner in question where appropriate.

With experiences first hand, the writer have initiated amendments for taxpayers both in the preparation of income tax returns for individual taxpayers as well as in my latter years, in the review of such tax returns, whenever errors have been discovered and warranted amendments, particularly in the cases of decreasing amendments.

The experiences of the writer is that “straightforward” individual taxpayers are generally salary earners, and as much they may at times have a fair understanding of the tax system, the complexity of the individual tax returns will mean they may not maximise their income tax deductions due to lack of awareness of what they can potentially claim as deductions. This lack of awareness can translate to lack of attention and omission when tax agents inadvertently overlooked the details. It is in such instances that compilation of the tax returns of the same taxpayer in subsequent years may rectify and correct earlier omissions, resulting in as little as \$50 to over \$1,000 adjustments depending on the errors and such amendments could span a number of prior years.

It is submitted should the ATO wishes to reduce its period of review from four to two years, based on the experiences of its own “initiated” amendments, that it may do so. However, should the amendments be instead “initiated” by the taxpayers/tax agents, that they will be maintained for a four-year period as it currently stands. The writer will not forget the heartfelt appreciation from low income salary earners, particularly single parent or struggling family with young children, acknowledging extra refunds from amendments of their prior year tax returns, which represent the opportunity to recover what they rightfully deserved and entitled from their hard-earn income.

It is also submitted reducing the period of amendment from four to two years for individual taxpayers can represent a serious unfairness to these taxpayers, where their resources are already limited to both understand the complex tax rules, as well as their reliance on their tax agents for compliance. The opportunity of amending incorrect prior year tax returns from earlier years will be lost if the amendment period is shortened to two years. It is recommended where the taxpayers/tax agents initiate the amendments for individual tax returns, that the right to amend be retained for a four-year period.

2.2 What specific income tax lodgement deadlines are difficult to meet? (Question 6.G)

Dividend and Interest Schedule - Schedule BT (formerly Reg 17) and Companies who use a substituted accounting period "SAP"

Companies are required to lodge the Dividend and Interest Schedules – Schedule BTs. The information in Dividend and Interest Schedule is matched against tax returns for the year ended 30 June. Consequently the dividend and interest information which a company supplies in the schedule must also be for the year ended 30 June, even if the company has a substituted accounting period.

Furthermore, companies with a substituted accounting period must lodge the schedule by 31 October 2003, or the due date for lodgment of the company tax return, whichever is later.

It is submitted this lodgement requirement is very difficult to comply with in practice. The reason is the financial statements and information for companies with substituted accounting periods are produced and compiled for year-ends other than 30 June. Therefore, in order to furnish a "correct" Interest and Dividend Schedule for the year ended 30 June, the details required in this schedule will have to be separately compiled from financial information collated for a SAP company as if it has year-ends at 30 June. This also means the schedule will often have to be lodged separately, independent of the lodgment of the SAP company's income tax return.

It is submitted compliance with the schedule as stated by the ATO is very onerous for companies with substituted accounting periods. It is also the experience of the writer that such dividend and interest schedules have been completed ignoring the above 30 June year-end requirement. Instead, these schedules were compiled and lodged to the ATO on the basis of their substituted year end period. It is recommended the above onerous requirement be reviewed and relaxed where possible. As it currently stands, this requirement imposes a real burden and added costs of compliance for companies with substituted accounting periods.

3.0 CONTACT DETAILS

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