



THE TAX INSTITUTE

15 April 2019

The Hon Bill Shorten MP
Leader of the Opposition
Australian Labor Party
PO Box 214
MOONEE PONDS VIC 3039

By email: Bill.Shorten.MP@aph.gov.au

Dear Mr Shorten,

Re comments attributed in the media to you concerning tax advisers

It has been reported in the media recently¹ that you described the long standing, express statutory availability of a tax deduction for assistance from a lawfully authorised tax practitioner as a “rort”, and propose that a Labor government would cap that deduction at \$3,000.

The purpose of this letter is to present The Tax Institute’s view on that deduction in the context of Australia’s tax system and the role played in it by tax practitioners. (The Tax Institute is the leading forum for the tax community in Australia. For further information, please refer to the Appendix.)

Australia’s tax laws now run to many thousands of pages. Ordinary Australians did not ask for that. It has been inflicted on them by successive governments.

Over 30 years ago, the Commonwealth government decided to abdicate primary responsibility for administering its own tax laws and to impose that responsibility, via the so-called “self-assessment” system, on ordinary Australians, and to subject ordinary Australians to the threat of severe penalties if they failed to achieve perfection in carrying out that newly imposed obligation.

The apparent intention of that measure was to reduce the administrative costs incurred directly by government. The correlative effect was to increase drastically the costs incurred by many Australians in seeking to meet their new obligations

¹ <https://www.theaustralian.com.au/nation/politics/bill-shorten-flags-ending-tax-deduction-for-accountancy-fees/news-story/948d678adcfc47c5b85b072b7179359>

Not surprisingly, today most Australians employ a registered tax agent to assist them with the task of complying with the “self-assessment” regime. They pay the agent, and in accordance with the letter of the law claim a deduction for that payment.

Many such Australians have comparatively simple financial affairs and would pay less than \$3,000 for such assistance. But many don't. If they are to obey the laws government has chosen to impose on them they need help. In many cases they will need more than \$3,000 of assistance. For example:

- someone considering making the leap of faith to create a new business, which may in time provide employment and prosperity to many other Australians, will need extensive advice on the tax consequences of all aspects of that decision;
- many people with foreign income or assets e.g. migrants need to address aspects of tax law that are complex even by the standards of the tax regime in general;
- people facing difficult circumstances such as a family that has suffered bereavement often need specialist assistance to sort out unwelcome problems.

It has been reported that one purported “justification” of the proposed measure is that some proportion of the tax compliance expenses is paid by some taxpayers for advice on complying with the law in a way that carries a reduced tax cost.

Firstly, as noted above, there can be many other reasons why an ordinary Australian would pay more than \$3,000 for tax assistance. It is a matter of public record that Labor appears to have announced this policy on the basis of deficient information, considerably overestimating the amount of money actually spent on such tax assistance. Once that total amount is correctly identified, there remains the question of how much of that total is spent on advice on reducing tax and how much is necessarily spent merely on calculating and reporting taxpayers' liabilities. The Institute strongly believes that many taxpayers spend considerably more than \$3,000 solely on the latter.

Secondly, so what if taxpayers do pay for such advice? Australians pay architects to design the best possible living space in accordance with planning laws. They use buyers' advocates to get the cheapest house price, insurance brokers to get the cheapest insurance and travel advisers to get the cheapest holidays. What's wrong with them saying to their tax advisers “these are my circumstances – how do I comply with the tax laws at the least cost?” Does Labor believe that Australians should be practically compelled to pay more tax than the law requires, by the costs of tax assistance being made considerably more expensive through the de facto tax increase of denied deductibility?

The Tax Institute is proud of the fact that vast numbers of its members provide essential help to vast numbers of ordinary Australian taxpayers in complying with the often bewildering and onerous demands that the tax law imposes on them. The work of qualified tax professionals is an essential part of Australia's tax system, as has been recognized for many years, especially since the advent of the self-assessment regime. Tax deductibility of advice in complying with tax laws is a legitimate expense of business, investment or other income earning activities. We utterly reject the notion that an open, express and long standing right to a tax deduction for costs in complying with laws imposed by government is a right, and strongly oppose a de facto tax increase by restriction of that right.

Whatever motivated the remarks which this letter addresses, many of the Institute's members have interpreted them as insulting to them and their clients. The Tax Institute urges Labor to acknowledge publicly the importance of taxpayers getting the assistance they need to comply with the tax system and that that advice often legitimately costs well over \$3,000 and to reconsider this ill-informed and counterproductive proposal.

If you would like to discuss any of the above, please contact me on 02 8223 0003.

Yours faithfully,

A handwritten signature in cursive script that reads "Tim Neilson".

Tim Neilson
President

CC The Hon Chris Bowen MP
CC The Hon Dr Andrew Leigh MP

APPENDIX

About The Tax Institute

The Tax Institute is the leading forum for the tax community in Australia. We are committed to representing our members, shaping the future of the tax profession and continuous improvement of the tax system for the benefit of all, through the advancement of knowledge, member support and advocacy.

Our membership of almost 12,000 includes tax professionals from commerce and industry, academia, government and public practice throughout Australia. Our tax community reach extends to over 40,000 Australian business leaders, tax professionals, government employees and students through the provision of specialist, practical and accurate knowledge and learning.

We are committed to propelling members onto the global stage, with over 7,000 of our members holding the Chartered Tax Adviser designation which represents the internationally recognised mark of expertise.

The Tax Institute was established in 1943 with the aim of improving the position of tax agents, tax law and administration. More than seven decades later, our values, friendships and members' unselfish desire to learn from each other are central to our success.

Australia's tax system has evolved and The Tax Institute has become increasingly respected, dynamic and responsive, having contributed to shaping the changes that benefit our members and taxpayers today. We are known for our committed volunteers and the altruistic sharing of knowledge. Members are actively involved, ensuring that the technical products and services on offer meet the varied needs of Australia's tax professionals.