

PETER DAVIS TAXATION & ACCOUNTING SERVICES

A Division of F P D Pty Ltd
ABN 52 003 516 112

8 February 2009

Committee Secretary
Senate Economics Committee
Department of the Senate
PO Box 6100
CANBERRA ACT 2600

Dear Sir

**Re: Inquiry into the Tax Agent Services Bill 2008
Supplementary Submission as requested by Inquiry Committee
On 6 February 2008**

This is a joint supplementary submission made with my associate Peter J Polgar, of Peter Polgar & Associates Pty Ltd – Suite 211, 658 Pittwater Road Brookvale NSW 2100.

We wish to thank the Committee for their time on Friday 6 February 2008, and the opportunity to urgently lodge a supplementary submission as requested.

After listening to all the speakers to the inquiry we again confirm the comments made that the Tax Agent Services Bill 2008 (Bill) and accompanying Explanatory Memorandum (EM) should be passed by both Houses of Parliament for the mutual benefit of all stakeholders concerned, namely Tax Agents (TA) and BAS Agents (BASA). Any delay will have a severe detrimental effect on the operations of the profession and all the participants associated and impacted by the Bill, as the existing legislation is outdated, not relevant and does not address the various anomalies resulting from the current regime of Taxation Services provided to the community at large.

We are in full agreement of the submission made by the Australian Association of Professional Bookkeepers Limited (AAPB) and the comments made therein. Unfortunately we completely disagree with the comments made by the representative of the Institute of Certified Bookkeepers Limited (ICB). The statistics mentioned at the hearing could not possibly compute and are in stark contrast to those presented by AAPB, and are not supported by any quantitative research or documentation.

We also support the comments made by all the other speakers except those comments made by Treasury. It appears to us that Treasury continues to not fully understand and comprehend several very important matters, namely:



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1. Circumstances surrounding the death of a TA or BASA.
2. The difference in the words “may” and “must” in the Bill and the EM in relation to PI Insurance.
3. The fundamental definition of a BASA and the registration thereof.

We now detail below the above items, for further clarification.

1. We refer the committee to Section 40-5(2) of the Bill. This clearly states at item (b) that the proposed National Tax Practitioners Board (Board) must terminate your registration if “you die”. There is no discretion in the Bill whatsoever for the Board to issue any guideline or vary this issue at all. We would strongly suggest that new wording be inserted after item (b) as follows...
(b) you die or
(c) the Board has the power in these circumstances to allow for the smooth transition of the deceased’s transactions and clients for a period of three (3) months, by the appointment of a licensed nominee to the practice of the deceased.

We suggest that the Board cannot issue a guideline in this instance at all, unless the Bill has the suggested clause (c) above or similar wording.

2. Item 20-30(3) of the Bill states that “the Board may, by written notice, require you to maintain Professional Indemnity Insurance (PI) etc...”. The word may to provide clarity and certainty to the Bill, should be replaced by the word “must” so as not to be in conflict with the comments made in the EM.

It is quite clear from the majority of comments made by the speakers at the hearing that the Board should ensure that all registrations and re-registrations of applicants are appropriately covered by PI and that no application should be processed without the applicant having suitable PI in place. This will ensure that there is appropriate consumer protection in place from both a community and TA/BASA perspective.

3. As a result of listening to all of the speakers it has become apparent, that all data entry contractors who charge a fee for their services (not employees) do in fact make decisions in relation to taxation matters, and as such under the Bill they should be required to register. Also apparent, was the fact that the proposed Board will require a substantial increase in staffing to cope with the possible influx of large numbers of new applicants. It appears further, from the discussions that the Board must be completely independent from the ATO.

We advise that we are two sole Public Practitioners and we do not represent any organisation whatsoever. We hereby authorise the Committee to publish this supplementary submission on the Parliamentary Website and make this a public submission available for all to read.



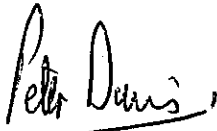
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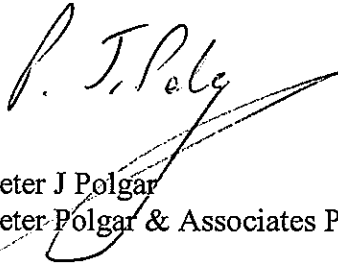
Should committee wish to enquire or clarification on the above matters please feel free to contact us accordingly.

Yours faithfully



Peter Davis

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